

# Exhibit MMM



**KENTUCKIANA**  
— COURT REPORTERS —

**CASE NO. 1:18-CV-1028**

**CASE NO. 1:18-CV-2312**

**ARTURO DELEON-REYES**

**V.**

**REYNALDO GUEVARA, ET AL.**

**AND**

**GABRIEL SOLACHE**

**V.**

**CITY OF CHICAGO, ET AL.**

**DEPONENT: BERNARD MURRAY, VOLUME I**

**DATE: FEBRUARY 7, 2023**



✉ [schedule@kentuckianareporters.com](mailto:schedule@kentuckianareporters.com)

☎ 877.808.5856 | 502.589.2273

1 IN THE UNITED STATES DISTRICT COURT  
2 FOR THE NORTHERN DISTRICT OF ILLINOIS  
3 EASTERN DIVISION  
4 CASE NO. 1:18-CV-1028  
5 CASE NO. 1:18-CV-2312

6  
7 ARTURO DELEON-REYES,  
8 Plaintiff

9  
10 v.

11 REYNALDO GUEVARA, ET AL.,  
12 Defendants

13  
14 AND

15 GABRIEL SOLACHE,  
16 Plaintiff

17  
18 v.

19 CITY OF CHICAGO, ET AL.,  
20 Defendants

21  
22  
23 DEPONENT: BERNARD MURRAY, VOLUME I

24 DATE: FEBRUARY 7, 2023

25 REPORTER: EMILIA LOPEZ

<p style="text-align: right;">Page 2</p> <p style="text-align: center;">APPEARANCES</p> <p>1</p> <p>2</p> <p>3 ON BEHALF OF THE PLAINTIFF, ARTURO DELEON-REYES:</p> <p>4 Anand Swaminathan, Esquire</p> <p>5 Annie Prossnitz, Esquire</p> <p>6 Loevy &amp; Loevy</p> <p>7 311 North Aberdeen Street</p> <p>8 Third Floor</p> <p>9 Chicago, Illinois 60607</p> <p>10 Telephone No.: (312) 243-5900</p> <p>11 E-mail: anand@loevy.com</p> <p>12 (Appeared via Videoconference)</p> <p>13</p> <p>14 ON BEHALF OF THE PLAINTIFF, GABRIEL SOLACHE:</p> <p>15 Jan Susler, Esquire</p> <p>16 People's Law Office</p> <p>17 1180 North Milwaukee Avenue</p> <p>18 Chicago, Illinois 60642</p> <p>19 Telephone No.: (773) 235-0070</p> <p>20 E-mail: jsusler@peopleslawoffice.com</p> <p>21 (Appeared via Videoconference)</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 4</p> <p style="text-align: center;">APPEARANCES (CONTINUED)</p> <p>1</p> <p>2</p> <p>3</p> <p>4 ON BEHALF OF THE DEFENDANT, REYNALDO GUEVARA:</p> <p>5 Michael J. Schalka, Esquire</p> <p>6 Leinenweber Baroni &amp; Daffada LLC</p> <p>7 120 North La Salle Street</p> <p>8 Suite 2000</p> <p>9 Chicago, Illinois 60602</p> <p>10 Telephone No.: (866) 786-3705</p> <p>11 E-mail: mjs@ilesq.com</p> <p>12 (Appeared via Videoconference)</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p style="text-align: right;">Page 3</p> <p style="text-align: center;">APPEARANCES (CONTINUED)</p> <p>1</p> <p>2</p> <p>3 ON BEHALF OF THE DEFENDANT, CITY OF CHICAGO AND THE</p> <p>4 DEPONENT, BERNARD MURRAY:</p> <p>5 Theresa Berousek Carney, Esquire</p> <p>6 Rock Fusco &amp; Connelly, LLC</p> <p>7 333 West Wacker</p> <p>8 Floor 19</p> <p>9 Chicago, Illinois 60606</p> <p>10 Telephone No.: (312) 494-1000</p> <p>11 E-mail: tcarney@rfclaw.com</p> <p>12 (Appeared via Videoconference)</p> <p>13</p> <p>14 ON BEHALF OF THE DEFENDANTS, ERNEST HALVORSEN, EDWIN</p> <p>15 DICKINSON, R. RUTHERFORD, STANKUS, NAUJOKAS, J.</p> <p>16 KARALOW, MARK HARVEY, DANIEL TREVINO, EDWARD MINGEY,</p> <p>17 BIEBEL, AND FRANK J. CAPPITELLI:</p> <p>18 Caroline Golden, Esquire</p> <p>19 The Sotos Law Firm, P.C.</p> <p>20 141 West Jackson Boulevard</p> <p>21 Suite 1240A</p> <p>22 Chicago, Illinois 60604</p> <p>23 Telephone No.: (630) 735-3300</p> <p>24 E-mail: cgolden@jsotoslaw.com</p> <p>25 (Appeared via Videoconference)</p>	<p style="text-align: right;">Page 5</p> <p style="text-align: center;">INDEX</p> <p>1</p> <p>2</p> <p>3 PROCEEDINGS</p> <p>4 DIRECT EXAMINATION BY MR. SWAMINATHAN</p> <p>5</p> <p>6</p> <p>7</p> <p style="text-align: center;">EXHIBITS</p> <p>8 Exhibit</p> <p>9 1 - Expert Report</p> <p>10 2 - Mr. Brasfield's Report</p> <p>11 3 - Materials Reviewed</p> <p>12 4 - Special Order 83-1</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p style="text-align: right;">Page</p> <p style="text-align: right;">7</p> <p style="text-align: right;">9</p> <p style="text-align: right;">Page</p> <p style="text-align: right;">35</p> <p style="text-align: right;">67</p> <p style="text-align: right;">71</p> <p style="text-align: right;">121</p>

<p style="text-align: right;">Page 6</p> <p style="text-align: center;">STIPULATION</p> <p>1 The VIDEO deposition of BERNARD MURRAY, VOLUME I was</p> <p>2 taken at KENTUCKIANA COURT REPORTERS, 730 WEST MAIN</p> <p>3 STREET, SUITE 101, LOUISVILLE, KENTUCKY 40220, via</p> <p>4 videoconference in which all participants attended</p> <p>5 remotely, on TUESDAY, the 7th day of FEBRUARY, 2023 at</p> <p>6 10:08 a.m. CENTRAL TIME; said VIDEO deposition was taken</p> <p>7 pursuant to the FEDERAL Rules of Civil Procedure. The</p> <p>8 oath in this matter was sworn remotely pursuant to</p> <p>9 FRCP 30.</p> <p>10</p> <p>11 It is agreed that EMILIA LOPEZ, being a Notary Public</p> <p>12 and Court Reporter for the State of ILLINOIS, may swear</p> <p>13 the witness and that the reading and signing of the</p> <p>14 completed transcript by the witness is not waived.</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 8</p> <p>1 MR. SWAMINATHAN: I'm sorry, Theresa, we have</p> <p>2 my colleague Annie's on --</p> <p>3 MS. CARNEY: Oh, sorry. Go ahead.</p> <p>4 MR. SWAMINATHAN: So I decided to let her join</p> <p>5 in. Sorry.</p> <p>6 MS. PROSSNITZ: Annie Prossnitz appearing on</p> <p>7 behalf of Mr. Reyes, appearing from Washington D.C.</p> <p>8 MR. SCHALKA: Michael Schalka on behalf of</p> <p>9 Defendant Guevara, appearing from -- remotely from</p> <p>10 Chicago.</p> <p>11 MS. GOLDEN: Caroline Golden for the</p> <p>12 individual officer defendants Halvorsen, Dickinson,</p> <p>13 Rutherford, Stankus, Naujokas, Karalow, Harvey,</p> <p>14 Trevino, Mingey, Biebel, and Cappitelli.</p> <p>15 MS. CARNEY: Theresa Carney on behalf of the</p> <p>16 City of Chicago, as well as the department.</p> <p>17 THE REPORTER: Thank you. And Mr. Murray,</p> <p>18 will you please state your full name for the</p> <p>19 record?</p> <p>20 THE WITNESS: Yes. Bernard Murray.</p> <p>21 THE REPORTER: Murray. Okay. Do all parties</p> <p>22 stipulate that the witness is in fact Bernardo</p> <p>23 [sic] Murray?</p> <p>24 MR. SWAMINATHAN: So stipulated for Plaintiff</p> <p>25 Reyes.</p>
<p style="text-align: right;">Page 7</p> <p style="text-align: center;">PROCEEDINGS</p> <p>1 THE REPORTER: Okay. We're now on the record.</p> <p>2 My name is Emilia Lopez. I'm the online video</p> <p>3 technician and court reporter today representing</p> <p>4 Kentuckiana Court Reporters, located at 730 West</p> <p>5 Main Street, Suite 101, Louisville, Kentucky,</p> <p>6 40202. Today is the 7th day of February 2023 and</p> <p>7 the time is 10:08 a.m. Central Time. We're</p> <p>8 convened by videoconference to take the deposition</p> <p>9 of Bernard Murray in the matter of Arturo DeLeon-</p> <p>10 Reyes v. Reynaldo Guevara, et al., case number</p> <p>11 1:18-CV-1028, and Gabriel Solache v. City of</p> <p>12 Chicago, et al, case number 1:18-CV-2312 pending in</p> <p>13 the U.S. District Court for the Northern District</p> <p>14 of Illinois Eastern Division. Will everyone but</p> <p>15 the witness please state your appearance, how</p> <p>16 you're attending, and your location, starting with</p> <p>17 the plaintiff's counsel?</p> <p>18 MR. SWAMINATHAN: Hi, good morning. Anand</p> <p>19 Swaminathan for Plaintiff Arturo DeLeon-Reyes,</p> <p>20 appearing by Zoom from Chicago.</p> <p>21 MS. SUSLER: Jan Susler on behalf of the</p> <p>22 plaintiff Gabriel Solache also on Zoom in Chicago.</p> <p>23 MS. CARNEY: Theresa Carney on behalf --</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 9</p> <p>1 MS. SUSLER: So stipulated for Plaintiff</p> <p>2 Solache.</p> <p>3 MS. CARNEY: For the record, it's Bernard not</p> <p>4 Bernard.</p> <p>5 THE REPORTER: Bernard? Okay. Sir, will you</p> <p>6 please raise your hand? Do you solemnly swear or</p> <p>7 affirm the testimony you're about to give will be</p> <p>8 the truth, the whole truth, and nothing but the</p> <p>9 truth?</p> <p>10 THE WITNESS: I do.</p> <p>11 THE REPORTER: Thank you.</p> <p>12 DIRECT EXAMINATION</p> <p>13 BY MR. SWAMINATHAN:</p> <p>14 Q. Good morning, Mr. Murray. Could you please</p> <p>15 state and spell your name for the record?</p> <p>16 A. It's Bernard Murray, B-E-R-N-A-R-D. Murray,</p> <p>17 M-U-R-R-A-Y.</p> <p>18 Q. Okay. And we've met before in prior</p> <p>19 instances. Nice to see you again. Let me start by</p> <p>20 asking you, sir, you have given depositions before in</p> <p>21 the past, correct?</p> <p>22 A. I have.</p> <p>23 Q. Okay. In how many instances have you been</p> <p>24 deposed?</p> <p>25 A. Twice.</p>

<p style="text-align: right;">Page 10</p> <p>1 Q. Okay. And were both -- those both in matters</p> <p>2 in which you were serving as an expert consultant for</p> <p>3 the City of Chicago?</p> <p>4 A. Yes.</p> <p>5 Q. Okay. Have you ever taken depositions before?</p> <p>6 A. No.</p> <p>7 Q. Okay. And obviously you have -- you -- you're</p> <p>8 a longtime former prosecutor, correct?</p> <p>9 A. Current prosecutor.</p> <p>10 Q. Current prosecutor. My apologies. Where are</p> <p>11 you currently a prosecutor?</p> <p>12 A. DuPage County State's Attorney's Office.</p> <p>13 Q. Okay. All right. You're still there at this</p> <p>14 time?</p> <p>15 A. I am.</p> <p>16 Q. And when did you begin there?</p> <p>17 A. I started in DuPage County in January of 2009.</p> <p>18 Q. Okay. And in that capacity, you are a trial</p> <p>19 prosecutor, correct?</p> <p>20 A. I'm -- I'm -- I'm in supervisory roles though</p> <p>21 I also conduct trials.</p> <p>22 Q. Okay. Suffice to say you have a lot of</p> <p>23 experience questioning witnesses under oath, correct?</p> <p>24 A. I have.</p> <p>25 Q. Okay. All right. Let me just go through the</p>	<p style="text-align: right;">Page 12</p> <p>1 understand it, please tell me and I will rephrase the</p> <p>2 question, okay?</p> <p>3 A. Yes.</p> <p>4 Q. And if you -- if I ask you a question and you</p> <p>5 answer my question, I'll assume you understood my</p> <p>6 question; is that fair?</p> <p>7 A. Yes.</p> <p>8 Q. Okay. If at any time you need to take a</p> <p>9 break, we can take a break. Please just let me know and</p> <p>10 we will do that. The only requirement is that you</p> <p>11 complete answering any pending question before we take a</p> <p>12 break, okay?</p> <p>13 A. I understand.</p> <p>14 Q. Okay. This is a yes or no question, so I'm</p> <p>15 not looking to get into your medical history in any way.</p> <p>16 Do you have any medical conditions that would prevent</p> <p>17 you from being able to understand my questions and</p> <p>18 answer them truthfully today?</p> <p>19 A. No.</p> <p>20 Q. And, sir, are you taking any medications that</p> <p>21 would prevent you from being able to understand my</p> <p>22 questions and answer them truthfully today?</p> <p>23 A. No.</p> <p>24 Q. Okay. All right. Can you tell me in how many</p> <p>25 instances you have served as a -- as an expert in</p>
<p style="text-align: right;">Page 11</p> <p>1 ground rules, although I know you know them, but let's</p> <p>2 go through them quickly. So this is obviously a</p> <p>3 deposition. Basically a question and answer session.</p> <p>4 I'll ask my questions, you'll answer them to the best of</p> <p>5 your ability. And the court reporter is going to take</p> <p>6 it all down, so during the deposition, please make sure</p> <p>7 that I complete my question before you answer my</p> <p>8 question so the court reporter is not trying to take</p> <p>9 down two people at the same time, fair?</p> <p>10 A. Yes.</p> <p>11 Q. Okay. If for some reason I have cut you off,</p> <p>12 because I thought you finished your question, please let</p> <p>13 me know and I'll let you continue, okay?</p> <p>14 A. Yes.</p> <p>15 Q. And likewise, there may be times when you know</p> <p>16 where I'm going with my question and there'll be many</p> <p>17 times where you know where I'm going with my question.</p> <p>18 Please make sure I've completed my question before you</p> <p>19 answer, fair?</p> <p>20 A. Yes.</p> <p>21 Q. Okay. Again, because the court reporter is</p> <p>22 trying to write it all down, no non-verbal</p> <p>23 communication, no "uh-huhs" or nods of your head, okay?</p> <p>24 A. Yes.</p> <p>25 Q. If I ask you a question and you don't</p>	<p style="text-align: right;">Page 13</p> <p>1 litigation?</p> <p>2 A. Two.</p> <p>3 Q. Two cases prior to this one; is that right?</p> <p>4 A. Yes.</p> <p>5 Q. Okay. And are those two cases both completed</p> <p>6 at this stage?</p> <p>7 A. Yes, they are.</p> <p>8 Q. Okay. And I'm going to venture a guess that</p> <p>9 the two prior cases in which you served as an expert are</p> <p>10 the Jacques Rivera case and the Nathson Fields case; is</p> <p>11 that correct?</p> <p>12 A. That's correct.</p> <p>13 Q. Okay. And so since the -- since you're --</p> <p>14 since -- strike that. Since the conclusion of your</p> <p>15 involvement in those two cases, the next case in which</p> <p>16 you have served as an expert is this case, the Reyes,</p> <p>17 Solache case; is that correct?</p> <p>18 A. Yes, it is.</p> <p>19 Q. Okay. And are you serving as a -- as an</p> <p>20 expert in any other cases?</p> <p>21 A. No.</p> <p>22 Q. Okay. Have you been retained to serve as an</p> <p>23 expert in any other cases?</p> <p>24 A. No.</p> <p>25 MS. GOLDEN: Objection. Calls for an invasion</p>

<p style="text-align: right;">Page 14</p> <p>1 of the privilege. Or potentially does, but I'll</p> <p>2 withdraw it based on the answer.</p> <p>3 BY MR. SWAMINATHAN:</p> <p>4 Q. All right. And how much are you being paid</p> <p>5 for your work in this case?</p> <p>6 A. I am not being compensated.</p> <p>7 Q. When you say you're not being compensated, are</p> <p>8 you doing the case for free?</p> <p>9 MS. CARNEY: Objection. Form.</p> <p>10 THE WITNESS: I'm -- I'm -- I'm not being</p> <p>11 compensated. Work -- work requirements and</p> <p>12 (Inaudible).</p> <p>13 BY MR. SWAMINATHAN:</p> <p>14 Q. Oh, sorry. It -- the -- it -- the -- it's</p> <p>15 cutting out as you're talking there, so I only got half</p> <p>16 your answer.</p> <p>17 A. I'm not being compensated because my -- my</p> <p>18 DuPage County State's Attorney's Office employment</p> <p>19 precludes me from accepting monetary legal employment</p> <p>20 outside of the office.</p> <p>21 MR. SWAMINATHAN: Okay. It's kind of coming</p> <p>22 in and out a little bit for me. Madam Court</p> <p>23 Reporter, is this -- are you getting the same</p> <p>24 thing?</p> <p>25 THE REPORTER: Yeah, it is.</p>	<p style="text-align: right;">Page 16</p> <p>1 compensation for your work?</p> <p>2 A. No. I -- I thought I could be compensated</p> <p>3 when I accepted expert in this case.</p> <p>4 Q. Okay. Did you get -- you -- I think it cut</p> <p>5 out a little bit there, but I think I got it --</p> <p>6 A. I -- I -- I expected to be compensated when I</p> <p>7 was employed in this case.</p> <p>8 Q. Okay. And how recently did you learn that you</p> <p>9 could not be compensated?</p> <p>10 A. I believe it was August or September --</p> <p>11 Q. Okay.</p> <p>12 A. -- 2022.</p> <p>13 Q. And at that point, had you submitted any</p> <p>14 invoices on the matter?</p> <p>15 A. No.</p> <p>16 Q. And at -- to date, have you submitted any</p> <p>17 invoices on the matter?</p> <p>18 A. I have not. I've totaled up my hours that I</p> <p>19 worked on the case, but I -- obviously it's not for</p> <p>20 received compensation.</p> <p>21 Q. Okay. What is the hourly rate that you had</p> <p>22 agreed upon prior to you -- to learning that you could</p> <p>23 not be compensated?</p> <p>24 A. \$200 an hour when I'm working on the file,</p> <p>25 filing my report, and \$300 an hour for deposition or</p>
<p style="text-align: right;">Page 15</p> <p>1 MR. SWAMINATHAN: Can we try to see, is there</p> <p>2 a mic that we can move a little closer? Maybe it's</p> <p>3 just not catching him all the time.</p> <p>4 MS. CARNEY: It's in the ceiling, so I can't</p> <p>5 move it. So just to keep --</p> <p>6 THE WITNESS: I'll keep my voice up.</p> <p>7 BY MR. SWAMINATHAN:</p> <p>8 Q. Okay. Let's see if that works. I'm going to</p> <p>9 ask the question again, I apologize, and let you answer</p> <p>10 again, just because it came in and out from what we</p> <p>11 heard, okay? So let me just ask it again. Sir, are you</p> <p>12 doing this case for free?</p> <p>13 A. My employment with DuPage County State's</p> <p>14 Attorney's Office precludes me accepting compensation</p> <p>15 for legal work outside of that office. Not accepting</p> <p>16 --</p> <p>17 Q. Okay.</p> <p>18 A. -- compensation for that reason.</p> <p>19 Q. Okay. And is there anybody who's receiving</p> <p>20 compensation for your work in this case? DuPage County,</p> <p>21 or anybody else?</p> <p>22 A. No.</p> <p>23 Q. Okay. When you agreed to offer expert</p> <p>24 opinions in this case, did you do so with an</p> <p>25 understanding that you would not receive any</p>	<p style="text-align: right;">Page 17</p> <p>1 court testimony.</p> <p>2 Q. Okay. And if you had -- strike that. If you</p> <p>3 had known that you could not be compensated for your</p> <p>4 work on this matter, would you agree to be retained and</p> <p>5 offered disclosed opinions in this matter?</p> <p>6 MS. CARNEY: Form.</p> <p>7 THE WITNESS: I've -- I had already done -- I</p> <p>8 already received the file and was ready to work on</p> <p>9 it, so I don't know how I would answer that. I</p> <p>10 would have to say that I felt I'd already been</p> <p>11 familiar with the case, I would've stayed on it.</p> <p>12 BY MR. SWAMINATHAN:</p> <p>13 Q. If you are asked to perform -- strike that. If</p> <p>14 you're asked to perform expert work on behalf of the</p> <p>15 City of Chicago in a future case, I assume the DuPage</p> <p>16 County requirements would still apply to you, correct?</p> <p>17 A. Yes.</p> <p>18 Q. In other words, if you were asked to work on</p> <p>19 future work, you would not be able to be compensated for</p> <p>20 that work, correct?</p> <p>21 A. Yes.</p> <p>22 Q. And if you're asked for --</p> <p>23 MS. GOLDEN: Object to foundation.</p> <p>24 BY MR. SWAMINATHAN:</p> <p>25 Q. And if you are asked to perform future work</p>



<p style="text-align: right;">Page 18</p> <p>1 for the City of Chicago and offer disclosed opinions, do</p> <p>2 you intend to agree to do such work if the facts are</p> <p>3 right or at this point, knowing that you can't be</p> <p>4 compensated, would you decline to perform expert work?</p> <p>5 MS. GOLDEN: Form.</p> <p>6 MS. CARNEY: Form. Calls for speculation.</p> <p>7 BY MR. SWAMINATHAN:</p> <p>8 Q. Go ahead.</p> <p>9 A. I don't know.</p> <p>10 Q. You know -- you're not sure what you would do</p> <p>11 in that situation?</p> <p>12 A. I'm not sure what I would do in that</p> <p>13 situation.</p> <p>14 Q. So it's possible that in --</p> <p>15 MS. GOLDEN: One second, Anand. Anand.</p> <p>16 MR. SWAMINATHAN: Go ahead.</p> <p>17 MS. GOLDEN: Please, just one second. I'm --</p> <p>18 have a belated objection to form. Thank you.</p> <p>19 BY MR. SWAMINATHAN:</p> <p>20 Q. In future cases, you would consider --</p> <p>21 MS. CARNEY: One second.</p> <p>22 MR. SWAMINATHAN: Oh, I'm sorry. Somebody's</p> <p>23 saying something?</p> <p>24 MS. CARNEY: You need to listen and, like,</p> <p>25 give a second for people to object.</p>	<p style="text-align: right;">Page 20</p> <p>1 Q. Okay. All right. How many total hours have</p> <p>2 you said you've -- strike that. You said you've kept a</p> <p>3 total of the number of hours you worked on this matter.</p> <p>4 How many hours is that?</p> <p>5 A. Check the document I created, approximately 41</p> <p>6 hours.</p> <p>7 Q. Okay. And is that 41 hours up to and through</p> <p>8 the time of your disclosed report, or at some point</p> <p>9 before or after that?</p> <p>10 A. It's through my disclosed report. No, I'm</p> <p>11 sorry. It's through this morning.</p> <p>12 Q. Through this morning, okay. So if I</p> <p>13 understand correctly, you've totaled up your hours in a</p> <p>14 document up to this point and it's 41 hours; is that</p> <p>15 right?</p> <p>16 MS. CARNEY: Objection. Form.</p> <p>17 BY MR. SWAMINATHAN:</p> <p>18 Q. Go ahead.</p> <p>19 A. It's -- I'm -- I'm approximating it, but I</p> <p>20 think it's 41 hours through this morning.</p> <p>21 Q. Okay. And how many hours did you spend</p> <p>22 preparing for today's deposition?</p> <p>23 A. Maybe two hours last week.</p> <p>24 Q. And that two hours, was that reviewing</p> <p>25 materials or was that in meeting with Counsel?</p>
<p style="text-align: right;">Page 19</p> <p>1 THE WITNESS: I will.</p> <p>2 MS. GOLDEN: Yeah. Mr. Murray, just with the</p> <p>3 lag in the video feed, I don't want to interrupt</p> <p>4 you. So if you could just pause for a second before</p> <p>5 answering, just so I can get a chance to object if</p> <p>6 I need to. Appreciate it.</p> <p>7 THE WITNESS: Yes, I will.</p> <p>8 MS. GOLDEN: Thank you.</p> <p>9 BY MR. SWAMINATHAN:</p> <p>10 Q. So if you're asked to offer disclosure</p> <p>11 opinions in future cases for the City of Chicago, you</p> <p>12 would consider doing so even if you're not compensated;</p> <p>13 is that fair?</p> <p>14 MS. CARNEY: Objection. Form. Calls for</p> <p>15 speculation.</p> <p>16 THE WITNESS: I don't know.</p> <p>17 BY MR. SWAMINATHAN:</p> <p>18 Q. I'm asking if you would consider it or if you</p> <p>19 would preclude it. Is the answer you would consider it</p> <p>20 or the answer is you don't know if you would consider</p> <p>21 it?</p> <p>22 MS. GOLDEN: Objection. Asked and answered.</p> <p>23 THE WITNESS: I don't know if I would consider</p> <p>24 it.</p> <p>25 BY MR. SWAMINATHAN:</p>	<p style="text-align: right;">Page 21</p> <p>1 A. Both.</p> <p>2 Q. Okay. So -- strike that. Have you had any</p> <p>3 meetings with Counsel in preparation for today's</p> <p>4 deposition?</p> <p>5 A. Yes.</p> <p>6 Q. And how long was your meeting with Counsel?</p> <p>7 A. Approximately two, two and a half hours.</p> <p>8 Q. Okay. Who was present at that meeting other</p> <p>9 than yourself?</p> <p>10 A. Ms. Carney.</p> <p>11 Q. Anyone else?</p> <p>12 A. No.</p> <p>13 Q. And during that meeting, did you review your</p> <p>14 expert report?</p> <p>15 A. Yes.</p> <p>16 Q. Did you review any other materials?</p> <p>17 A. I had the -- Mr. Tiderington's report as well.</p> <p>18 Q. Anything else that you reviewed in that</p> <p>19 meeting?</p> <p>20 A. No.</p> <p>21 Q. Did you do anything else to prepare for</p> <p>22 today's deposition other than that two to two and a half</p> <p>23 hour meeting with Ms. Carney?</p> <p>24 A. I read over the same materials yesterday.</p> <p>25 Q. When you say same materials, you're referring</p>



<p style="text-align: right;">Page 22</p> <p>1 to your report and the expert report of Mr. Tiderington,</p> <p>2 correct?</p> <p>3 A. Yes.</p> <p>4 Q. Okay. Anything else you did to prepare for</p> <p>5 today's deposition?</p> <p>6 A. I also looked at a police order. I think it's</p> <p>7 8301. And I looked at parts of my previous deposition</p> <p>8 Rivera.</p> <p>9 Q. And you did that outside the presence of</p> <p>10 Counsel, I take it?</p> <p>11 A. Yes.</p> <p>12 Q. Okay. And how long did you spend reviewing --</p> <p>13 strike that. Anything else that you reviewed other than</p> <p>14 the -- your expert report, expert report of Mr.</p> <p>15 Tiderington, special order 83-1, and parts of your</p> <p>16 Rivera deposition?</p> <p>17 A. Preparing for the deposition, that's all I</p> <p>18 reviewed.</p> <p>19 Q. Okay. And how long did you spend reviewing</p> <p>20 the special order and the parts of the Rivera</p> <p>21 deposition?</p> <p>22 A. Reviewing the deposition, maybe longer, maybe</p> <p>23 three hours as well as the report.</p> <p>24 Q. You cut out there. "Three hours as well as,"</p> <p>25 and I didn't catch it.</p>	<p style="text-align: right;">Page 24</p> <p>1 Q. Okay. When you reviewed your testimony, you</p> <p>2 said it was the deposition that you gave in the Jacques</p> <p>3 Rivera case; is that correct?</p> <p>4 A. Yes.</p> <p>5 Q. When you reviewed your testimony from the</p> <p>6 Jacques Rivera deposition, did you find anything in that</p> <p>7 deposition transcript that was incorrect?</p> <p>8 MS. CARNEY: Objection. Form.</p> <p>9 THE WITNESS: No.</p> <p>10 BY MR. SWAMINATHAN:</p> <p>11 Q. Let me strike that. Let me ask a better</p> <p>12 question. When you reviewed your testimony from the</p> <p>13 Rivera deposition, did you find that there were any</p> <p>14 answers you had given that were inaccurate or incorrect?</p> <p>15 A. No.</p> <p>16 Q. When you reviewed that deposition transcript</p> <p>17 from the Rivera matter, did you find that there were any</p> <p>18 answers you were given -- you had given that were false?</p> <p>19 A. No.</p> <p>20 Q. Do you stand by the answers you gave in the</p> <p>21 transcript of the Rivera deposition?</p> <p>22 A. Yes.</p> <p>23 Q. Okay. Have you at any point reviewed the</p> <p>24 testimony that you gave at the Rivera trial?</p> <p>25 A. No.</p>
<p style="text-align: right;">Page 23</p> <p>1 A. Also included in that time was the deposition</p> <p>2 and the police order.</p> <p>3 Q. Okay. So in preparation for this deposition,</p> <p>4 you've spent approximately five to five and a half hours</p> <p>5 meeting with Counsel and reviewing certain documents; is</p> <p>6 that fair?</p> <p>7 A. That sounds like a good approximation.</p> <p>8 Q. Okay. Anything else you've done in the period</p> <p>9 between the time that you completed your expert report</p> <p>10 in this matter and this morning?</p> <p>11 A. No.</p> <p>12 Q. Okay. So if we want to understand the total</p> <p>13 hours that you've spent approximately in preparing your</p> <p>14 report, it would be the 41 hours, up to this point,</p> <p>15 minus the five to five and a half hours you spent in</p> <p>16 preparation; is that fair?</p> <p>17 A. No, that -- actually that's not accurate. I'd</p> <p>18 say the five hours are in -- in addition to the 41.</p> <p>19 Q. Okay. So 41 hours was up to the point that</p> <p>20 you completed your disclosed report?</p> <p>21 A. That's correct.</p> <p>22 Q. And then you spent an additional five to five</p> <p>23 and a half hours on -- in preparation for this</p> <p>24 deposition. Do I have that right?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 25</p> <p>1 Q. At any point since you completed that</p> <p>2 testimony at the Rivera trial, did you think to yourself</p> <p>3 -- strike that. At any point, have you come to believe</p> <p>4 that there was any testimony you gave at the Rivera</p> <p>5 trial that was false or inaccurate?</p> <p>6 A. No.</p> <p>7 Q. Do you have any reason to believe any of the</p> <p>8 testimony you gave at the Rivera trial was false or</p> <p>9 inaccurate?</p> <p>10 A. No.</p> <p>11 Q. And do you stand by the testimony you gave at</p> <p>12 the Rivera trial?</p> <p>13 A. Yes.</p> <p>14 Q. Have you had an opportunity to review your</p> <p>15 testimony from the Nathson Fields trial?</p> <p>16 A. No.</p> <p>17 Q. Did you review it in preparation -- strike</p> <p>18 that. Did you review your testimony at the Fields trial</p> <p>19 in your work in preparing your expert report in the</p> <p>20 Rivera case?</p> <p>21 A. I -- I may have reviewed my deposition in</p> <p>22 preparing for the Rivera deposition, but frankly I -- I</p> <p>23 don't recall right now if -- if I did that. I think I</p> <p>24 did that. That's what I'm guessing.</p> <p>25 Q. In other words, you recall reviewing your</p>

<p style="text-align: right;">Page 26</p> <p>1 Fields deposition testimony during the course of your</p> <p>2 involvement in the Rivera matter; is that fair?</p> <p>3 A. That's my best recollection.</p> <p>4 Q. Okay. At any point when you reviewed your</p> <p>5 testimony from the Fields deposition, did you find that</p> <p>6 any of the answers you had given were false or</p> <p>7 inaccurate?</p> <p>8 MS. GOLDEN: Object to foundation.</p> <p>9 THE WITNESS: No.</p> <p>10 BY MR. SWAMINATHAN:</p> <p>11 Q. At any point after you completed -- strike</p> <p>12 that. At any point during or after the Fields</p> <p>13 deposition, did you believe that you had provided any</p> <p>14 information that was false or inaccurate?</p> <p>15 MS. GOLDEN: Same objection.</p> <p>16 THE WITNESS: No.</p> <p>17 MS. GOLDEN: Add form.</p> <p>18 THE WITNESS: No.</p> <p>19 BY MR. SWAMINATHAN:</p> <p>20 Q. And do you stand by your deposition testimony</p> <p>21 in Fields?</p> <p>22 MS. GOLDEN: Form.</p> <p>23 THE WITNESS: Yes.</p> <p>24 BY MR. SWAMINATHAN:</p> <p>25 Q. And have you had an opportunity at any point</p>	<p style="text-align: right;">Page 28</p> <p>1 Q. And so during -- strike that. So either</p> <p>2 during or after you gave testimony at the Fields trial,</p> <p>3 did you ever come to believe that you'd provided any</p> <p>4 information that was false or inaccurate at that trial?</p> <p>5 MS. GOLDEN: Foundation.</p> <p>6 THE WITNESS: No.</p> <p>7 BY MR. SWAMINATHAN:</p> <p>8 Q. Go ahead.</p> <p>9 A. No.</p> <p>10 Q. And do you stand by your testimony from the</p> <p>11 Fields trial?</p> <p>12 MS. GOLDEN: Form.</p> <p>13 THE WITNESS: Yes.</p> <p>14 BY MR. SWAMINATHAN:</p> <p>15 Q. Okay. And then last question in this line.</p> <p>16 Apologies for sort of the tediousness of it. You</p> <p>17 testified in the Rivera trial, correct?</p> <p>18 A. Yes.</p> <p>19 Q. And have you had any opportunity to review</p> <p>20 your trial testimony from Rivera?</p> <p>21 MS. CARNEY: Objection. Asked and answered.</p> <p>22 MR. SWAMINATHAN: Did I do the Rivera trial?</p> <p>23 I'm sorry. You -- did you say yes, Theresa?</p> <p>24 MS. CARNEY: Yeah, you did, but that's okay.</p> <p>25 MR. SWAMINATHAN: I will take -- I will take</p>
<p style="text-align: right;">Page 27</p> <p>1 to review your trial testimony in the Fields matter?</p> <p>2 A. No.</p> <p>3 Q. At any point during or after you gave that</p> <p>4 testimony, did you come to believe any of that testimony</p> <p>5 was false or inaccurate?</p> <p>6 A. I don't -- I don't think I understand the --</p> <p>7 the form of that question.</p> <p>8 Q. Let me ask it again.</p> <p>9 A. During my testimony?</p> <p>10 Q. Say that again? Sorry.</p> <p>11 A. During my testimony?</p> <p>12 Q. Yeah. No, let me -- yeah. So let me ask a</p> <p>13 better question. As you were giving the testimony at</p> <p>14 the Fields trial, did you have any moment where you</p> <p>15 thought to yourself ooh, I made a mistake. I said</p> <p>16 something I didn't mean to say?</p> <p>17 MS. GOLDEN: Foundation.</p> <p>18 THE WITNESS: No.</p> <p>19 BY MR. SWAMINATHAN:</p> <p>20 Q. At any point after you gave your testimony at</p> <p>21 the Fields trial did you think to yourself oh, I gave</p> <p>22 some testimony there that I didn't mean to give?</p> <p>23 MS. CARNEY: Objection. Form.</p> <p>24 THE WITNESS: No.</p> <p>25 BY MR. SWAMINATHAN:</p>	<p style="text-align: right;">Page 29</p> <p>1 you -- yeah, I trust you. Thank you. Let me move</p> <p>2 on then.</p> <p>3 BY MR. SWAMINATHAN:</p> <p>4 Q. In the Rivera matter, do you recall</p> <p>5 approximately how many hours you spent in preparing your</p> <p>6 report in that matter?</p> <p>7 A. I don't recall.</p> <p>8 Q. Okay. In the Fields matter, do you recall how</p> <p>9 many hours you spent preparing your report in that</p> <p>10 matter?</p> <p>11 A. I don't recall.</p> <p>12 Q. Do you recall how much you were paid in the</p> <p>13 Fields matter?</p> <p>14 A. An hourly rate?</p> <p>15 Q. No. The total amount that you were paid in</p> <p>16 Fields.</p> <p>17 A. I do not recall that amount.</p> <p>18 Q. Would it be accurate to say that the amount</p> <p>19 you were paid in Fields was in the ballpark of</p> <p>20 \$100,000?</p> <p>21 A. I don't think it made it to \$100,000, but it</p> <p>22 was 90,000s for sure.</p> <p>23 Q. Okay. So in the ballpark of 90,000 is what</p> <p>24 you were paid for Fields; is that fair?</p> <p>25 A. That's my best recollection.</p>

<p style="text-align: right;">Page 30</p> <p>1 Q. Okay. And what's your best recollection of</p> <p>2 the amount you were paid in the Rivera matter?</p> <p>3 A. Approximately 16,000, 17,000. That's an</p> <p>4 estimate.</p> <p>5 Q. Okay. Okay. In the Rivera matter, fair to</p> <p>6 say you were paid in -- strike that. In both the Rivera</p> <p>7 matter and in the Fields matter, you gave depositions --</p> <p>8 strike that. In both the Rivera matter and in the</p> <p>9 Fields matter, you gave disclosed opinions, gave</p> <p>10 depositions, and testified at trial, correct?</p> <p>11 A. Yes.</p> <p>12 Q. All right. And you were paid approximately</p> <p>13 four times less in the Rivera matter than you were paid</p> <p>14 in the Fields matter, correct?</p> <p>15 MS. CARNEY: Objection.</p> <p>16 BY MR. SWAMINATHAN:</p> <p>17 Q. Go ahead.</p> <p>18 A. I'm not doing the math quickly, but sounds --</p> <p>19 that sounds about accurate.</p> <p>20 Q. Okay. And in both those cases, you charged</p> <p>21 the same hourly rate, that is \$200 per hour for your</p> <p>22 review of materials and report writing, and then \$300</p> <p>23 per hour for testimony, correct?</p> <p>24 A. Yes.</p> <p>25 Q. Why were your total hours -- so in other</p>	<p style="text-align: right;">Page 32</p> <p>1 A. I -- I looked at fewer files -- Rivera.</p> <p>2 Q. When you say you looked at fewer files in</p> <p>3 Rivera, you mean you -- there were fewer total files in</p> <p>4 which you conducted a comparison of police files to</p> <p>5 public defender files and prosecutor files; is that</p> <p>6 right?</p> <p>7 A. Yes.</p> <p>8 Q. Okay. In other words, there was a time-</p> <p>9 consuming process of comparing files that you conducted</p> <p>10 in the Fields case for many dozens of files, correct?</p> <p>11 A. Yes.</p> <p>12 Q. And then in Rivera, you didn't conduct that</p> <p>13 same file comparison for nearly as many files, correct?</p> <p>14 A. Examined far fewer files.</p> <p>15 Q. Okay. And then similarly in this case, you</p> <p>16 examined far fewer files than you examined in Fields,</p> <p>17 correct?</p> <p>18 A. Yes.</p> <p>19 Q. Okay. And that's not because there were fewer</p> <p>20 available files in the cases, it's because you decided</p> <p>21 to review fewer files for purposes of your analysis in</p> <p>22 this case, correct?</p> <p>23 MS. GOLDEN: Objection. Privilege.</p> <p>24 MS. CARNEY: Objection. Form. Foundation.</p> <p>25 And the extent that what you reviewed will --</p>
<p style="text-align: right;">Page 31</p> <p>1 words, not only were your -- was the total amount you</p> <p>2 were paid approximately four times less, the total hours</p> <p>3 you put into the case were approximately four times</p> <p>4 less; is that fair?</p> <p>5 A. That's accurate.</p> <p>6 Q. Okay. Why would -- why did you spend</p> <p>7 approximately four times more in Fields than you did in</p> <p>8 Rivera?</p> <p>9 MS. GOLDEN: Objection. I think that goes</p> <p>10 into the drafting process.</p> <p>11 BY MR. SWAMINATHAN:</p> <p>12 Q. Go ahead.</p> <p>13 A. The --</p> <p>14 MS. CARNEY: Sorry. I'm sorry. I was just</p> <p>15 trying to think of the question. I'm going to</p> <p>16 object to the extent that the answer is going to</p> <p>17 impede on any of the attorney-client communications</p> <p>18 you had with the attorney for Rivera. Answer that</p> <p>19 without going into drafting process or the --</p> <p>20 THE REPORTER: Last thing I heard was "or</p> <p>21 the."</p> <p>22 MS. CARNEY: Or the communications with either</p> <p>23 set of city attorneys on those cases.</p> <p>24 BY MR. SWAMINATHAN:</p> <p>25 Q. Go ahead.</p>	<p style="text-align: right;">Page 33</p> <p>1 includes attorney-client communications.</p> <p>2 THE REPORTER: Last thing we heard was</p> <p>3 attorney-client communications.</p> <p>4 MS. CARNEY: Sorry. I'm objecting on the</p> <p>5 grounds that to answer that question, it would</p> <p>6 likely call for attorney-client communication. So</p> <p>7 if you can answer that question without revealing</p> <p>8 our attorney- client communication work product,</p> <p>9 you can, otherwise I'm going to instruct you not to</p> <p>10 answer.</p> <p>11 MS. GOLDEN: And the decision-making process</p> <p>12 in terms of drafting reports and formulating</p> <p>13 opinions.</p> <p>14 BY MR. SWAMINATHAN:</p> <p>15 Q. Go ahead, Mr. Murray.</p> <p>16 A. Forgot the question.</p> <p>17 MR. SWAMINATHAN: Let me ask again. I -- I'm</p> <p>18 having a little bit of struggle here with the sort</p> <p>19 of sound coming in and out. Is it -- Theresa, is</p> <p>20 it possible to switch to your audio potentially?</p> <p>21 MS. CARNEY: Yeah, that won't -- it won't work</p> <p>22 on mine. I have a backup potentially coming in if</p> <p>23 it's -- if it's continuing to be difficult, but</p> <p>24 it's all -- it's the system in here. So there's</p> <p>25 not much I can do. So we can -- I can have a backup</p>

<p style="text-align: right;">Page 34</p> <p>1 be brought in at some point. It's going to take a</p> <p>2 -- it'll take a minute to get it done. So if we</p> <p>3 just try to --</p> <p>4 MR. SWAMINATHAN: Do you have a sense of</p> <p>5 generally how long that will take?</p> <p>6 MS. CARNEY: I don't because it's -- it -- the</p> <p>7 system is supposed to be set up that it --</p> <p>8 MR. SWAMINATHAN: Let's go off the record for</p> <p>9 a minute. I think Theresa just stepped off.</p> <p>10 THE REPORTER: Okay.</p> <p>11 MS. CARNEY: No, I'm here.</p> <p>12 MR. SWAMINATHAN: Oh.</p> <p>13 THE REPORTER: Do you guys want to go off the</p> <p>14 record?</p> <p>15 MR. SWAMINATHAN: Yeah. Let's go off the</p> <p>16 record. I want to see if we can figure out --</p> <p>17 because the in and out is a real challenge.</p> <p>18 THE REPORTER: Okay.</p> <p>19 MR. SWAMINATHAN: Especially when some of the</p> <p>20 instructions are be given as the witness, and I</p> <p>21 can't hear that.</p> <p>22 THE REPORTER: Going off the record. The time</p> <p>23 is 10:37 a.m.</p> <p>24 (OFF THE RECORD)</p> <p>25 THE REPORTER: We're back on the record. The</p>	<p style="text-align: right;">Page 36</p> <p>1 A. Yes.</p> <p>2 Q. And then you also attached your materials</p> <p>3 reviewed, right? Two pages of materials reviewed?</p> <p>4 A. Yes.</p> <p>5 Q. And then subsequent to that, you have an</p> <p>6 Attachment A, correct?</p> <p>7 A. Attachment A.</p> <p>8 MS. CARNEY: So you might have to put it up</p> <p>9 because he --</p> <p>10 THE WITNESS: Yeah.</p> <p>11 MS. CARNEY: -- he does not have all the</p> <p>12 attachments, hard copies.</p> <p>13 MR. SWAMINATHAN: Okay. Let me -- yeah. Let</p> <p>14 me put it up.</p> <p>15 BY MR. SWAMINATHAN:</p> <p>16 Q. All right. So what I'm showing you now is</p> <p>17 Exhibit 1, which I have identified as the -- as your</p> <p>18 expert report. Looking at -- let's just -- since I've</p> <p>19 got it up on the screen here, looking at Page 23 of</p> <p>20 Exhibit 1, that's your signature, correct, sir?</p> <p>21 A. Yes.</p> <p>22 Q. Okay. And so Pages 1 through 23 constitute</p> <p>23 the expert report that you disclosed in this matter,</p> <p>24 correct?</p> <p>25 A. Yes.</p>
<p style="text-align: right;">Page 35</p> <p>1 time is 10:47 a.m.</p> <p>2 BY MR. SWAMINATHAN:</p> <p>3 Q. All right. Mr. Murray, I'm going to show you</p> <p>4 a document we'll mark as Exhibit 1. The copy of your</p> <p>5 expert report in the case. Do you have that in front of</p> <p>6 you?</p> <p>7 (EXHIBIT 1 MARKED FOR IDENTIFICATION)</p> <p>8 A. Yes, I do.</p> <p>9 BY MR. SWAMINATHAN:</p> <p>10 Q. Okay. And if you got it in front of you, I</p> <p>11 don't think we need to put it up on the screen. If at</p> <p>12 any point it's useful for you -- if it's useful to you</p> <p>13 for me to put it up on the screen, I will do that, okay?</p> <p>14 A. Okay.</p> <p>15 Q. All right. Looking at Exhibit 1, that is a</p> <p>16 copy of your expert report in this matter, correct?</p> <p>17 A. Yes.</p> <p>18 Q. Okay. And you signed that expert report,</p> <p>19 correct?</p> <p>20 A. Yes, I did.</p> <p>21 Q. Okay. And the expert report itself is --</p> <p>22 let's see. You signed it on the 23rd page, correct?</p> <p>23 A. Yes.</p> <p>24 Q. Okay. And then in addition to that report,</p> <p>25 you include your CV, correct?</p>	<p style="text-align: right;">Page 37</p> <p>1 Q. And you're not intending to offer any opinions</p> <p>2 in this matter other than those disclosed on Pages 1</p> <p>3 through 23 of your report; is that fair?</p> <p>4 A. That's my intention.</p> <p>5 Q. Okay. And you're not intending to present to</p> <p>6 the jury different opinions in those -- for additional</p> <p>7 opinions other than those that are contained within your</p> <p>8 report on Pages 1 through 23, correct?</p> <p>9 A. I don't intend to.</p> <p>10 Q. Okay. And then after that -- strike that.</p> <p>11 Exhibit 1 is a, in total, 167-page document. Do you see</p> <p>12 that?</p> <p>13 A. Show me that Exhibit -- Attachment A again.</p> <p>14 I'm sorry.</p> <p>15 Q. Yes. Let me get to that in one minute.</p> <p>16 Exhibit 1 is a total of 167 pages. And what I'm showing</p> <p>17 you now is that on the next page, after you signed your</p> <p>18 report, is a copy of your CV. Do you see that?</p> <p>19 A. I do.</p> <p>20 Q. Okay. And that is an accurate copy of the CV</p> <p>21 that you disclosed in this matter, correct?</p> <p>22 A. It's where I disclosed, but it's not fully</p> <p>23 accurate.</p> <p>24 Q. Okay. And in what sense is it not accurate,</p> <p>25 sir?</p>

<p style="text-align: right;">Page 38</p> <p>1 A. Well, there's a further employment. After</p> <p>2 2015, I actually worked for the Illinois State Appellate</p> <p>3 Prosecutor's Office for less than one year, maybe nine</p> <p>4 months. I also worked on a case for the Kane County</p> <p>5 State's Attorney's Office. And then I returned to the</p> <p>6 DuPage County State's Attorney's Office. I think that's</p> <p>7 on there, returning to the State's Attorney's Office.</p> <p>8 Q. Okay. So in other words, there are a few</p> <p>9 employment positions that you held that are not listed</p> <p>10 in your professional experience here, correct?</p> <p>11 A. That's correct.</p> <p>12 Q. Okay. Any reason you omitted those from this</p> <p>13 resume?</p> <p>14 A. The -- no, there isn't.</p> <p>15 Q. Okay. Did you consider those not to be</p> <p>16 employment that was worthy of including on our resume?</p> <p>17 A. When I forwarded this resume for you using</p> <p>18 this -- with this report, I thought it was my most up-</p> <p>19 to-date resume. I realized over the weekend that it was</p> <p>20 not.</p> <p>21 Q. Okay. And looking at your -- at this resume,</p> <p>22 it indicates that your -- all of your professional</p> <p>23 experience is in the role of a prosecutor; is that</p> <p>24 correct?</p> <p>25 A. Yes, that is correct.</p>	<p style="text-align: right;">Page 40</p> <p>1 Q. Okay. In your work at the DuPage County</p> <p>2 State's Attorney's office, have you reviewed any police</p> <p>3 department -- DuPage Sheriff's Department policies?</p> <p>4 A. No.</p> <p>5 Q. And in your work, you said you've also spent</p> <p>6 some time working in the Kane County State's Attorney's</p> <p>7 office?</p> <p>8 A. Yes.</p> <p>9 Q. And have you reviewed any policies of the Kane</p> <p>10 County Sheriff's Department or any other law enforcement</p> <p>11 agencies in that jurisdiction?</p> <p>12 A. No.</p> <p>13 Q. And was there any other prosecutor's office</p> <p>14 that you said you worked for?</p> <p>15 A. In my role with the Illinois State Appellate</p> <p>16 Prosecutors in --</p> <p>17 Q. Yes. I'm sorry. I didn't mean that. In your</p> <p>18 work with the Illinois -- can you say it again?</p> <p>19 Illinois?</p> <p>20 A. Illinois State's Attorney -- the State's</p> <p>21 Attorney's Appellate Prosecutor's office.</p> <p>22 Q. In that office did you review any policies of</p> <p>23 any law enforcement agencies?</p> <p>24 A. No.</p> <p>25 Q. And during your time working in the Cook</p>
<p style="text-align: right;">Page 39</p> <p>1 Q. Okay. And the two additional -- you</p> <p>2 identified a couple of additional items of experience</p> <p>3 that you have that were not listed on this report, but</p> <p>4 those were also in a role as a prosecutor, correct?</p> <p>5 A. Yes.</p> <p>6 Q. It would be -- and when you graduated from law</p> <p>7 school, you went directly into the prosecutor's office,</p> <p>8 correct?</p> <p>9 A. Yes.</p> <p>10 Q. Okay. And so fair to say you've spent your</p> <p>11 entire career working either in the Cook County State's</p> <p>12 Attorney's Office or other prosecutor offices?</p> <p>13 A. Yes.</p> <p>14 Q. Okay. The position you currently have with</p> <p>15 the DuPage County State's Attorney's Office, in that</p> <p>16 role do you have any involvement in police</p> <p>17 investigations?</p> <p>18 MS. CARNEY: Objection. Form.</p> <p>19 THE WITNESS: My position is that of the first</p> <p>20 assistant, so I don't directly go out and work on</p> <p>21 investigations. But from time to time, I'm called</p> <p>22 to review files to determine whether charges should</p> <p>23 be placed or not. That's fairly rare, but it does</p> <p>24 happen.</p> <p>25 BY MR. SWAMINATHAN:</p>	<p style="text-align: right;">Page 41</p> <p>1 County State's Attorney's office, in your role as a</p> <p>2 prosecutor in any one of the roles you held as a</p> <p>3 prosecutor, did you ever review any Chicago Police</p> <p>4 Department policies?</p> <p>5 A. I became aware of the general order we</p> <p>6 referred to before, the 83-1, I became aware of that</p> <p>7 during my career as a prosecutor, but I did not</p> <p>8 specifically review their policies during my career with</p> <p>9 the Cook County State's Attorney's Office.</p> <p>10 Q. Okay. And when you say you "became aware of</p> <p>11 special order 83-1," you had not -- you did not see that</p> <p>12 policy at any point while you were working in the Cook</p> <p>13 County State's Attorney's Office, correct?</p> <p>14 A. Yeah, I knew it existed, but I don't recall</p> <p>15 seeing it until after that time.</p> <p>16 Q. Okay. And when you say you saw it for the</p> <p>17 first time after you worked at the Cook County State's</p> <p>18 Attorney's Office, the first time was in the context of</p> <p>19 your work in the Fields case as an expert, correct?</p> <p>20 MS. GOLDEN: Objection. Misstates his</p> <p>21 testimony. He just did not say that.</p> <p>22 BY MR. SWAMINATHAN:</p> <p>23 Q. Go ahead.</p> <p>24 MS. GOLDEN: You can answer.</p> <p>25 THE WITNESS: I did not -- I don't recall</p>



<p style="text-align: right;">Page 42</p> <p>1 reading it or reviewing it while I was in the Cook</p> <p>2 County State's Attorney's Office, but I knew of its</p> <p>3 existence.</p> <p>4 BY MR. SWAMINATHAN:</p> <p>5 Q. I'll ask the question again. The first time</p> <p>6 you saw that policy was while you were serving as an</p> <p>7 expert in the Fields matter, correct?</p> <p>8 A. That sounds right. I don't remember exactly</p> <p>9 when I first saw it, but I think that sounds right to</p> <p>10 me.</p> <p>11 Q. Okay. And you don't recall any point at which</p> <p>12 you saw that policy in the context of your work as a</p> <p>13 Cook County State's attorney, correct?</p> <p>14 A. Well, I didn't see it, but I was aware of it.</p> <p>15 Q. Okay. And when you say you were "aware of</p> <p>16 it," how did you become aware of it?</p> <p>17 A. Well, I knew there were -- that we had</p> <p>18 discovery obligations to defense attorneys, so I knew</p> <p>19 all -- during my career we were doing everything</p> <p>20 possible to comply with that. I was also aware the --</p> <p>21 probably primarily through news media of the original</p> <p>22 Street Files case and how, as a result of that, an order</p> <p>23 was placed -- you know, this order was created to make</p> <p>24 sure Street Files notes and all those type of materials</p> <p>25 were preserved and that we, as prosecutors, should</p>	<p style="text-align: right;">Page 44</p> <p>1 you looked at or reviewed that provided you with</p> <p>2 information about that original Street Files case or the</p> <p>3 creation of a special order in response?</p> <p>4 A. I don't --</p> <p>5 MS. CARNEY: Form.</p> <p>6 A. -- understand your question.</p> <p>7 BY MR. SWAMINATHAN:</p> <p>8 Q. Yeah. Other than news media, was there</p> <p>9 anything else that you reviewed to learn more about that</p> <p>10 original Street Files case?</p> <p>11 MS. CARNEY: Form.</p> <p>12 THE WITNESS: Just so I'm clear, you're</p> <p>13 referring back when I was working for the Cook</p> <p>14 County State's Attorney's Office?</p> <p>15 BY MR. SWAMINATHAN:</p> <p>16 Q. Yes.</p> <p>17 A. I don't recall reviewing other materials.</p> <p>18 Q. And other than what you saw on the news media</p> <p>19 was there anything else you reviewed while you were</p> <p>20 working in the Cook County State's Attorney's Office</p> <p>21 about the special orders or general orders that emanated</p> <p>22 from that event?</p> <p>23 MS. CARNEY: Foundation.</p> <p>24 BY MR. SWAMINATHAN:</p> <p>25 Q. Go ahead.</p>
<p style="text-align: right;">Page 43</p> <p>1 obtain them and tender them to defense attorneys.</p> <p>2 Q. And when you say you had knowledge about the</p> <p>3 -- of the original Street Files case, what are you</p> <p>4 referring to?</p> <p>5 A. I don't remember the name of the offender, but</p> <p>6 it was a case in federal court where a prior criminal</p> <p>7 defendant said there were Street Files, or that was a</p> <p>8 characterization that were withheld from him that would</p> <p>9 have proved his innocence.</p> <p>10 Q. Okay. And is there -- was -- and you learned</p> <p>11 about the existence of that original Street Files case</p> <p>12 through the news media; is that right?</p> <p>13 A. That's my recollection, yes.</p> <p>14 Q. Okay. And did you learn any other information</p> <p>15 about that case other than what you learned through the</p> <p>16 news media?</p> <p>17 A. Well, in that -- growing out of that, the</p> <p>18 general order was created 83-01 or one of those reports</p> <p>19 was created for police officers to retain investigative</p> <p>20 files, notes, GPRs, whatever they came to be called.</p> <p>21 Q. And that -- and you learned about the</p> <p>22 existence of that general order coming out of the</p> <p>23 original Street Files case through the news media?</p> <p>24 A. Primarily, yes.</p> <p>25 Q. Okay. And then was there anything else that</p>	<p style="text-align: right;">Page 45</p> <p>1 A. I -- not that I recall.</p> <p>2 Q. Okay. And then the next time that you -- oh,</p> <p>3 strike that. And when you said you learned about the</p> <p>4 general orders that came out of that situation, you</p> <p>5 didn't review a copy of that general order or special</p> <p>6 order, correct?</p> <p>7 MS. CARNEY: Objection. Form.</p> <p>8 THE WITNESS: I don't recall reviewing it</p> <p>9 during that time period.</p> <p>10 BY MR. SWAMINATHAN:</p> <p>11 Q. Okay. And did you -- were you ever provided</p> <p>12 with any document or information that summarized what</p> <p>13 the contents of that order were while you were still</p> <p>14 working in the Cook County State Attorney's office?</p> <p>15 A. Not that I recall.</p> <p>16 Q. Okay. So it would be fair to say you,</p> <p>17 basically, knew generally of its existence, but you</p> <p>18 didn't know exactly what the policy said; is that fair?</p> <p>19 MS. GOLDEN: Form.</p> <p>20 MS. CARNEY: Objection. Form. Foundation.</p> <p>21 Misstates his testimony. You can answer.</p> <p>22 THE WITNESS: No, I knew specifically that the</p> <p>23 order referred to retaining notes, I think now</p> <p>24 called general progress reports, and any other</p> <p>25 investigative material that was collected by law</p>

<p style="text-align: right;">Page 46</p> <p>1 enforcement officers with the Chicago Police</p> <p>2 Department during the course of their investigation</p> <p>3 so that they would be available for use by</p> <p>4 prosecutors and available to defense attorneys</p> <p>5 prior to and during trial.</p> <p>6 BY MR. SWAMINATHAN:</p> <p>7 Q. And you were just testifying a moment ago when</p> <p>8 I asked you a question about the idea that you were</p> <p>9 doing "everything we could to make sure information was</p> <p>10 being disclosed to criminal defendants." Do you recall</p> <p>11 saying that?</p> <p>12 A. Yeah.</p> <p>13 MS. CARNEY: Objection. Form. And it</p> <p>14 misstates his testimony. You can answer.</p> <p>15 BY MR. SWAMINATHAN:</p> <p>16 Q. All right. Yeah. Let me ask a different</p> <p>17 question. Would it be fair to say that, during the time</p> <p>18 you were a Cook County prosecutor, you were doing</p> <p>19 everything you could to make sure that investigative</p> <p>20 information was being disclosed to criminal defendants?</p> <p>21 A. Yes.</p> <p>22 Q. Okay. And what would you -- what were you</p> <p>23 doing to make sure everything was being disclosed to</p> <p>24 criminal defendant as a prosecutor?</p> <p>25 A. As early in my career as working in the</p>	<p style="text-align: right;">Page 48</p> <p>1 prosecutor's office about where to go to gather that</p> <p>2 information, correct?</p> <p>3 A. Okay. I missed the end of your question. I'm</p> <p>4 sorry. I didn't understand the end of it.</p> <p>5 Q. One of the things you did was learn or get</p> <p>6 trained from other prosecutors about where to go to</p> <p>7 gather the information, correct?</p> <p>8 A. And the use of forms or other documents to</p> <p>9 obtain -- or subpoenas to obtain those items.</p> <p>10 Q. Okay. In other words, the ways in which to go</p> <p>11 about making requests to the police department for those</p> <p>12 -- for that information, fair?</p> <p>13 A. And also other agencies, yes.</p> <p>14 Q. Okay. Thank you. And what else were the</p> <p>15 things you were doing as a prosecutor to do everything</p> <p>16 you could to make sure you were turning everything over</p> <p>17 to criminal defendants?</p> <p>18 A. Well, during my time throughout the office if</p> <p>19 I had not received reports in a timely manner for court</p> <p>20 -- for disclosure in court, I would reach out to law</p> <p>21 enforcement officers and ask them to bring their files</p> <p>22 by so we can expedite the discovery process.</p> <p>23 Q. Yeah. In other words, if you weren't getting</p> <p>24 things -- if you weren't getting police reports when you</p> <p>25 wanted them, you would ask officers to just bring them</p>
<p style="text-align: right;">Page 47</p> <p>1 juvenile court, we had seminars by more senior</p> <p>2 prosecutors telling us either different sources of law</p> <p>3 enforcement information and even outside agency</p> <p>4 information, and telling us -- telling young prosecutors</p> <p>5 to use both interoffice mail forms with Chicago Police</p> <p>6 Department. And I think, pretty much, by the time I --</p> <p>7 even when I was in juvenile court we were using</p> <p>8 subpoenas to make sure we obtained those reports and,</p> <p>9 you know, other related law enforcement reports that</p> <p>10 were not necessarily Chicago Police Department.</p> <p>11 Q. And so you were taking steps to try to gather</p> <p>12 the relevant materials you needed from the police</p> <p>13 department; is that right?</p> <p>14 A. Yes. This is -- this was training that I</p> <p>15 received back in my first courtroom assignment, but it</p> <p>16 was things that prosecutors more senior to me were</p> <p>17 doing.</p> <p>18 Q. And so you were learning from them based on</p> <p>19 what their experiences were, right?</p> <p>20 A. Yes.</p> <p>21 Q. And so one of the things you're describing</p> <p>22 that you would do to make, you know -- when you say you</p> <p>23 did everything you could to try to make sure you were</p> <p>24 disclosing material to the criminal defendants, one of</p> <p>25 the thing you did was you got trained by others in the</p>	<p style="text-align: right;">Page 49</p> <p>1 to you directly; is that right?</p> <p>2 A. Yes.</p> <p>3 Q. And why was that helpful?</p> <p>4 A. Well, there's different court dates, and</p> <p>5 judges are expecting that the discovery is completed and</p> <p>6 we can get the matter either to trial or resolved short</p> <p>7 of trial, so there are certain just time restraints put</p> <p>8 upon a prosecutor and a defense attorney in a courtroom.</p> <p>9 So if I had asked for police reports and did not receive</p> <p>10 all of them before the next court date, I didn't want to</p> <p>11 get sanctioned or disciplined by the judge, frankly. I</p> <p>12 wanted to try to get the reports for my own benefit for</p> <p>13 preparing for trial, preparing my answer to discovery,</p> <p>14 as well as for providing them to defense counsel.</p> <p>15 Q. Okay. And so what you're describing is one of</p> <p>16 the things you could do to circumvent the subpoena</p> <p>17 process in going through the subpoena unit was to just</p> <p>18 ask the detective to directly bring the file to you,</p> <p>19 correct?</p> <p>20 MS. GOLDEN: Form.</p> <p>21 MS. CARNEY: Form. Misstates his testimony.</p> <p>22 You can answer.</p> <p>23 THE WITNESS: Well, it's not just subpoenas</p> <p>24 we're, you know, sending inter-office form</p> <p>25 requests, too. So if those items were not</p>



<p style="text-align: right;">Page 50</p> <p>1 returned, it would be a different phone call to a</p> <p>2 different person. But, yes, it's the same idea to</p> <p>3 get items in a quicker fashion.</p> <p>4 BY MR. SWAMINATHAN:</p> <p>5 Q. And one of the ways you could get them in a</p> <p>6 quicker fashion was to ask the detective to just bring</p> <p>7 it to you directly, correct?</p> <p>8 A. Yes.</p> <p>9 Q. Okay. And I think you indicated that one of</p> <p>10 the kinds of -- strike that. One of the circumstances</p> <p>11 that would come up in your work as a prosecutor was that</p> <p>12 sometimes you'd get some of the files from the police</p> <p>13 department, but not all of the files, correct?</p> <p>14 MS. CARNEY: Objection. Form. Misstates his</p> <p>15 testimony.</p> <p>16 MS. GOLDEN: Foundation.</p> <p>17 MS. CARNEY: You can answer.</p> <p>18 THE WITNESS: I would request, you know --</p> <p>19 through different subpoenas or different forms, I</p> <p>20 would request every police report I could conceive</p> <p>21 of. And maybe some of them came in a timely manner</p> <p>22 and some were -- some requests had not made it to</p> <p>23 my desk or made it to my office prior to the next</p> <p>24 court date.</p> <p>25 BY MR. SWAMINATHAN:</p>	<p style="text-align: right;">Page 52</p> <p>1 had the materials from the police department?</p> <p>2 A. I'm not sure I quite understand that question.</p> <p>3 Q. Yeah. Once you had materials from the police</p> <p>4 department, what steps would you take to do everything</p> <p>5 you could to get the materials to the criminal</p> <p>6 defendant?</p> <p>7 A. I would provide them in court. I would</p> <p>8 include some of the information in my answer discovery.</p> <p>9 And if there were bulk items, like physical evidence or</p> <p>10 maybe whole sets of photographs, I would tell the</p> <p>11 defense attorney that the -- if they want to review them</p> <p>12 pre-motions or pre-trial, we would make all those items</p> <p>13 available as well.</p> <p>14 Q. Would you disclose all of the documents and</p> <p>15 reports that you received from the police department to</p> <p>16 the criminal defense attorneys?</p> <p>17 A. Yes, I would.</p> <p>18 Q. Would you pick and choose which documents to</p> <p>19 disclose to the criminal defendants from the police</p> <p>20 records and documents you had?</p> <p>21 A. If you could explain to me what you mean by</p> <p>22 "pick and choose," I think I'd be better able to answer</p> <p>23 your question.</p> <p>24 Q. Yeah. Would you go through the police reports</p> <p>25 and records that were provided to you by the police</p>
<p style="text-align: right;">Page 51</p> <p>1 Q. And so sometimes you couldn't -- you would</p> <p>2 make calls or requests to get information that hadn't</p> <p>3 -- that -- for part of the police file that hadn't</p> <p>4 gotten to you yet, fair?</p> <p>5 A. That's accurate.</p> <p>6 Q. Okay. And one of the things you would do to</p> <p>7 try to do that was sometimes reach out directly to the</p> <p>8 detective involved in the investigation, fair?</p> <p>9 A. Yes.</p> <p>10 Q. Okay.</p> <p>11 A. Or other officers.</p> <p>12 Q. And sometimes others as well, right?</p> <p>13 A. Yes.</p> <p>14 Q. And sometimes directly with the officer who</p> <p>15 was involved in the investigation, fair?</p> <p>16 A. Yes.</p> <p>17 Q. Okay. And you've described to me some of the</p> <p>18 things you would do to try to make sure you were turning</p> <p>19 everything over to the criminal defendants, including</p> <p>20 your efforts to try to get materials from the police</p> <p>21 department to you, correct?</p> <p>22 A. Yes.</p> <p>23 Q. And then were there steps you would take to</p> <p>24 try to ensure that you were doing everything you could</p> <p>25 to get the materials to the criminal defendants once you</p>	<p style="text-align: right;">Page 53</p> <p>1 department and decide to deliberately leave some of</p> <p>2 those out in terms of what you gave to the criminal</p> <p>3 defendant?</p> <p>4 A. No.</p> <p>5 Q. Okay. And when you would receive files from</p> <p>6 the police department -- strike that. Would it be fair</p> <p>7 to say that your practice was to err on the side of</p> <p>8 disclosing the materials that you received from the</p> <p>9 police department to criminal defendants?</p> <p>10 A. That was the whole purpose of obtaining the</p> <p>11 police reports would be to tender them to defense</p> <p>12 counsel.</p> <p>13 Q. Okay. And that was your practice?</p> <p>14 A. Yes.</p> <p>15 Q. And that was the policy of your -- of the</p> <p>16 state's attorney's office, correct?</p> <p>17 A. I don't know if the office had a written</p> <p>18 policy, but we were told it was, for lack of a better</p> <p>19 phrase, an open file office that we'd give over</p> <p>20 everything we have in our file to the defense counsel.</p> <p>21 Q. Okay.</p> <p>22 A. Obviously, if there's work products, something</p> <p>23 like that, or something with an informant that what --</p> <p>24 would be by the rules, I would not have to tender those.</p> <p>25 Q. Okay. But putting aside obviously work</p>

<p style="text-align: right;">Page 54</p> <p>1 product -- by work product, you mean things that were  2 created within your office as part of your analysis and  3 strategy and so on, correct?</p> <p>4 A. Yes.</p> <p>5 Q. Okay. But you're not -- when you talk about  6 work product you're not talking about documents that  7 come from the police department, correct?</p> <p>8 A. Well, there might be something that deals with  9 an informant.</p> <p>10 Q. That's separate and apart from the issue of  11 work product, correct?</p> <p>12 A. Yes.</p> <p>13 Q. Okay. So --</p> <p>14 MS. GOLDEN: I'm not --</p> <p>15 Q. -- putting aside --</p> <p>16 MR. SWAMINATHAN: Oh, I'm sorry.</p> <p>17 MS. GOLDEN: No, just pace. Like if you could  18 -- I think you cut him off.</p> <p>19 MR. SWAMINATHAN: Yeah. Oh, I'm sorry. Okay.</p> <p>20 BY MR. SWAMINATHAN:</p> <p>21 Q. Sorry. Let me just make the -- make sure the  22 record is clear. When it comes to work product, you're  23 not referring to confidential informants, correct?</p> <p>24 A. No.</p> <p>25 Q. And when it comes to work product you're not</p>	<p style="text-align: right;">Page 56</p> <p>1 Q. Did -- was it your experience that prosecutors  2 in your office disclosed everything in their file to  3 criminal defense attorneys?</p> <p>4 A. That was my experience.</p> <p>5 Q. Okay. Did you have any instances where you  6 had prosecutors working in your office that you felt  7 were picking and choosing what to give to the criminal  8 defendants?</p> <p>9 MS. CARNEY: Objection. Form. Foundation.</p> <p>10 You can answer.</p> <p>11 THE WITNESS: I did not feel that.</p> <p>12 BY MR. SWAMINATHAN:</p> <p>13 Q. Okay. Was it your experience that prosecutors  14 in your office were erring on the side of disclosure of  15 criminal defendants?</p> <p>16 A. Well, like I've said before, when we get the  17 police reports, we're tendering them to defense counsel,  18 so it's not necessarily erring on the side of. It's what  19 we do.</p> <p>20 Q. Okay. And in terms of the actions you would  21 take as a prosecutor to ensure that you were doing  22 everything you could to turn everything over to criminal  23 defendants, would you make sure that you were putting  24 all the documents that you received from the police  25 department into your file?</p>
<p style="text-align: right;">Page 55</p> <p>1 referring to materials from the police department,  2 correct?</p> <p>3 A. No.</p> <p>4 Q. And when you say -- I should ask it  5 differently because I'm saying "Correct?" And you're  6 saying "No." So let me re-ask it so we're clear. When  7 you're talking about work product, you're not referring  8 to -- strike that. When you're talking about work  9 product, are you referring to documented materials that  10 come from the police department?</p> <p>11 A. I'm not referring to that.</p> <p>12 Q. Okay. And then confidential informants is --  13 well, strike that. I don't care about that right now.  14 Okay. Were -- did you serve as a supervisor in the  15 State's Attorney's office? Strike that. Did you  16 supervise other state's attorneys in the State's  17 Attorney's office?</p> <p>18 A. Yes, I did.</p> <p>19 Q. And specifically at Cook County?</p> <p>20 A. Yes, I did.</p> <p>21 Q. Okay. And as supervisor, was it your  22 expectation that others were following the same practice  23 that you did of disclosing everything in your file that  24 you got from the police department?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 57</p> <p>1 MS. CARNEY: Objection. Form.</p> <p>2 THE WITNESS: Yeah. I missed -- I'm sorry. I  3 don't understand that question.</p> <p>4 BY MR. SWAMINATHAN:</p> <p>5 Q. Yeah. In other words, part of making sure you  6 give everything over to the criminal defendants is  7 making sure that you keep a complete file of all the  8 materials you're receiving from the police department,  9 correct?</p> <p>10 A. Well, as we're gathering the -- all the  11 reports from the police -- from Chicago Police  12 Department, we would have them in our file.</p> <p>13 Q. Okay. And when you say "in our file," what  14 are you referring to?</p> <p>15 A. A manila folder where we put the police  16 reports that we received from the police department.</p> <p>17 Q. Okay. And so was there a practice around what  18 was done in your office in terms of the materials that  19 are gathered from the police department that go into a  20 particular type of file?</p> <p>21 A. I don't know if it's a particular type of  22 file. Some people may use manila, some people may use  23 brown folders. I don't really know that, but obviously  24 we're collecting police reports from law enforcement  25 agencies and other people who may be involved in the</p>

<p style="text-align: right;">Page 58</p> <p>1 investigation and we have to put them into a folder so</p> <p>2 we can then copy them and tender them to defense</p> <p>3 counsel.</p> <p>4 Q. Okay. And then the documents that you -- oh,</p> <p>5 I'm sorry. I didn't want to cut you off.</p> <p>6 A. I didn't finish -- and compile our answer</p> <p>7 discovery, for example.</p> <p>8 Q. Okay. And then those documents that you</p> <p>9 gathered and made copies of and provided to criminal</p> <p>10 defense attorneys, what would you do with those copies</p> <p>11 that you had received?</p> <p>12 A. Copies I had received from Chicago Police</p> <p>13 Department?</p> <p>14 Q. Yes.</p> <p>15 A. I would keep them in preparation for motions</p> <p>16 at trial.</p> <p>17 Q. Okay. And would that go into a trial file?</p> <p>18 A. Well, the file --</p> <p>19 MS. CARNEY: Objection. Form. Foundation.</p> <p>20 You can answer.</p> <p>21 THE WITNESS: Well, the file is a file. If we</p> <p>22 go to trial or we plea out or we go to motions,</p> <p>23 that's the file.</p> <p>24 BY MR. SWAMINATHAN:</p> <p>25 Q. Okay. So there was one file that was kept for</p>	<p style="text-align: right;">Page 60</p> <p>1 BY MR. SWAMINATHAN:</p> <p>2 Q. Okay. Would you throw away any of the police</p> <p>3 reports that you had -- that became part of the file you</p> <p>4 received from the police department?</p> <p>5 A. If it was a duplicate, an exact duplicate,</p> <p>6 that may be discarded in an effort to clean up the file</p> <p>7 for storage, but we would not remove any reports.</p> <p>8 Q. And the -- and so the file that was packed up</p> <p>9 and went to storage would include all of the police</p> <p>10 reports and other materials received from the police</p> <p>11 department; is that fair?</p> <p>12 A. And I would --</p> <p>13 MS. CARNEY: Objection. Form. Foundation.</p> <p>14 Calls for speculation. Go ahead.</p> <p>15 THE WITNESS: You receive all the reports and</p> <p>16 other agency reports and photographs and jury</p> <p>17 instructions and motions.</p> <p>18 BY MR. SWAMINATHAN:</p> <p>19 Q. Okay. And then you said once you -- so in</p> <p>20 other words, you would take -- there would be some step</p> <p>21 of making sure that everything you've got associated</p> <p>22 with that case from all the various police departments</p> <p>23 or agencies you've received, it is all in the file</p> <p>24 before it gets packed up; is that right?</p> <p>25 A. Well, the prosecutor who handled the case</p>
<p style="text-align: right;">Page 59</p> <p>1 the prosecution in an individual case throughout the</p> <p>2 process through trial or however far it went; is that</p> <p>3 fair?</p> <p>4 A. Well, through trial or resolution of the case</p> <p>5 in the trial court.</p> <p>6 Q. Okay. And then what would happen if the case</p> <p>7 went up on appeal?</p> <p>8 MS. CARNEY: Objection. Form. Foundation.</p> <p>9 Calls for speculation. You can answer if you know.</p> <p>10 THE WITNESS: Our file would be -- if all</p> <p>11 defendants were resolved, our file would be packed</p> <p>12 up and sent to a warehouse for storage.</p> <p>13 BY MR. SWAMINATHAN:</p> <p>14 Q. Okay. And so then -- okay. Strike that.</p> <p>15 Before the file was packed up and sent off to storage,</p> <p>16 would you remove any of the police reports or other</p> <p>17 documents from the police department from the file?</p> <p>18 MS. CARNEY: Objection. Form. Foundation.</p> <p>19 Calls for speculation.</p> <p>20 THE WITNESS: If there were duplicate reports,</p> <p>21 we would clean out the file, we would take manila</p> <p>22 folders out of the file -- of the inside of the</p> <p>23 file, but we would keep a complete set of all the</p> <p>24 reports that we gathered during the investigation</p> <p>25 and use at motions or trial.</p>	<p style="text-align: right;">Page 61</p> <p>1 would pack it up.</p> <p>2 Q. Okay. And then it would go off to storage; is</p> <p>3 that right?</p> <p>4 A. Yes.</p> <p>5 Q. Okay. And then if the case was up on appeal,</p> <p>6 there would be a separate appeal file that is created?</p> <p>7 Is that how it worked?</p> <p>8 MS. CARNEY: Objection. Form. Foundation.</p> <p>9 Calls for speculation.</p> <p>10 THE WITNESS: I worked in appeals at the</p> <p>11 beginning of my career. The appellate prosecutors</p> <p>12 would receive -- if it were conviction obviously --</p> <p>13 would receive the brief from the defense -- from</p> <p>14 the defendant appellate attorney, and they would</p> <p>15 file their briefs and they would examine the record</p> <p>16 on appeal that was compiled by the defense attorney</p> <p>17 filing the appeal. So that's a completely different</p> <p>18 part of the office that doesn't necessarily rely</p> <p>19 upon the trial file.</p> <p>20 BY MR. SWAMINATHAN:</p> <p>21 Q. Okay. And so during the time you were working</p> <p>22 on appeals, it -- you, typically, were not requesting</p> <p>23 copies of the trial file that had gone to storage, fair?</p> <p>24 A. Almost never.</p> <p>25 MS. CARNEY: Objection. Form.</p>

<p style="text-align: right;">Page 62</p> <p>1 MR. SWAMINATHAN: Did you get the answer,  2 Madam Court Reporter?  3 THE REPORTER: Yes.  4 MR. SWAMINATHAN: Okay. Sorry. Okay.  5 BY MR. SWAMINATHAN:  6 Q. All right. In your practice, when you  7 completed a case and we're packing up the trial to --  8 file to go to storage, would you ever remove materials  9 that you had received from the police department other  10 than duplicates?  11 A. I think I answered that. No, I would not.  12 Q. Okay. And during your time supervising other  13 prosecutors, are you aware of any prosecutors that would  14 remove any of the police reports or other documents  15 released from police -- received from police agencies  16 other than duplicates?  17 MS. CARNEY: Objection. Form. Foundation.  18 Calls for speculation.  19 THE WITNESS: I'm not aware of anyone removing  20 police reports from the closed trial file.  21 BY MR. SWAMINATHAN:  22 Q. Okay. And was it your expectation, as a  23 supervisor, that other state's attorneys were -- when  24 they closed the case and were packing up the trial file,  25 that they were not taking out materials from that file</p>	<p style="text-align: right;">Page 64</p> <p>1 Page 27, and then, basically, Pages 28 through 167 of  2 your report disclosed in this matter are an Attachment  3 A. And can you tell us what Attachment A consists of?  4 A. I'm looking at in the screen right now. I  5 don't have a paper copy in front of me, so it's kind of  6 hard to read.  7 Q. Would it be fair to say that Attachment A  8 appears to be your report in the Fields matter?  9 A. Yes.  10 Q. And, in addition -- I'm sort of just leafing  11 through it here with you looking at it with me here. I'm  12 going through it here little by little, and I just don't  13 want to waste your time, but I'm going through this page  14 by page, and this includes the discussion of case after  15 case from the Fields matter. Does that look familiar to  16 you?  17 A. It does look familiar to me.  18 Q. Okay. So in other words, as I'm going through  19 this, this basically contains the -- strike that. The  20 Fields report that I'm showing you on the screen as part  21 of Attachment A to your report is your case by case  22 discussion of each of the police files and corresponding  23 prosecutor files and public defender files in the Fields  24 matter, correct?  25 A. It appears to be my entire report.</p>
<p style="text-align: right;">Page 63</p> <p>1 other than any duplicates?  2 A. They -- to my knowledge, they were not taking  3 out police reports from the file.  4 Q. Okay. Let's go back to your report. And  5 let's see here. This is Exhibit 1 that I'm putting back  6 up on the screen. We've made it to Page 24 there before  7 my dalliance. So let's take a look at -- Page 25 and 26  8 of this Report are your materials reviewed. Do you see  9 that, sir?  10 A. I do.  11 Q. Okay. And does that accurately reflect the  12 materials you reviewed in preparation for -- strike  13 that. Does this -- do Pages 25 and 26 of Exhibit 1 list  14 the materials you reviewed in preparing your report in  15 this matter?  16 A. Yes.  17 Q. Okay. And do -- does Pages 25 and 26  18 accurately reflect the documents that you reviewed and  19 relied on in preparing your report in this matter?  20 A. Yes.  21 Q. Okay. And are there any other documents that  22 you reviewed while you were preparing your report in  23 this case?  24 A. No.  25 Q. Okay. And then Attachment A begins on</p>	<p style="text-align: right;">Page 65</p> <p>1 Q. Okay. And your report included a discussion  2 of each case for which you had a prosecutor file and  3 public defender file to go along with a police file,  4 correct?  5 A. Yes, that's my recollection.  6 Q. Okay. And then I'm just continuing to leaf  7 through each of those case-by-case discussions in your  8 Field report. Okay. And you see that on Page 144 of  9 Exhibit 1 it includes your signature on a date of  10 June 24, 2016 reflecting the entirety of your Fields  11 expert report, correct?  12 A. I see that, yes.  13 Q. Okay. And that was a 117-page report that you  14 submitted in the Fields case, correct?  15 A. Yep. Yes.  16 Q. Okay. And then if you look at the next page,  17 this is Page 145 of Exhibit 1, part of Attachment A also  18 includes a letter and subsequently an expert report that  19 you submitted in the Rivera matter, correct?  20 A. That's what it looks like, yes.  21 Q. Okay. So Attachment A consists of your Field  22 expert report and your expert report in the Rivera  23 matter, correct?  24 A. Yes.  25 Q. Okay. And in the Rivera matter, your expert</p>



<p style="text-align: right;">Page 66</p> <p>1 report was -- strike that. On Page 167 of Exhibit 1, it</p> <p>2 indicates your signature on your report in the Jacques</p> <p>3 Rivera case dated May 12, 2017, correct?</p> <p>4 A. Yes.</p> <p>5 Q. And your report in that case was 22 pages,</p> <p>6 correct?</p> <p>7 A. Yes.</p> <p>8 Q. Okay. And the reason your report was much</p> <p>9 shorter in the Rivera case is because you didn't conduct</p> <p>10 the same number of file comparisons between prosecutor</p> <p>11 files and public defender files and police files,</p> <p>12 correct?</p> <p>13 A. I focused on a smaller set of files.</p> <p>14 Q. Okay. In the Rivera case, were you aware that</p> <p>15 there were more prosecutor files and public defender</p> <p>16 files that had been disclosed during the discovery in</p> <p>17 the matter than the ones that you had reviewed?</p> <p>18 MS. CARNEY: Objection. Form. Foundation.</p> <p>19 You can answer.</p> <p>20 THE WITNESS: There were more files examined</p> <p>21 by the plaintiff's expert, but as I recall from</p> <p>22 that case, he focused as -- I think the word he</p> <p>23 used was examples, the cases that I focused my</p> <p>24 examination on.</p> <p>25 BY MR. SWAMINATHAN:</p>	<p style="text-align: right;">Page 68</p> <p>1 report of Michael Brassfield and Nathson Fields. Do you</p> <p>2 see that?</p> <p>3 (EXHIBIT 2 MARKED FOR IDENTIFICATION)</p> <p>4 A. Yes.</p> <p>5 BY MR. SWAMINATHAN:</p> <p>6 Q. Okay. And that Michael Brassfield, you agree,</p> <p>7 is the expert that had been hired by the plaintiff in</p> <p>8 the Rivera matter, correct? In the Fields matter,</p> <p>9 correct?</p> <p>10 A. Yes. Yes.</p> <p>11 Q. And then on Page 19 of his report --</p> <p>12 Mr. Brassfield's report, he has a section discussing the</p> <p>13 missing pages containing information and relevant --</p> <p>14 containing important and relevant information that</p> <p>15 should have been disclosed to criminal defendants. Do</p> <p>16 you see that?</p> <p>17 A. Right. I see that.</p> <p>18 Q. Okay. And then he has the discussion of</p> <p>19 particular files and the examples of particular cases,</p> <p>20 correct?</p> <p>21 A. As you're scrolling down, I can see that.</p> <p>22 Q. Okay. So in the -- I'll -- we don't need to</p> <p>23 spend more time on that. But in the Fields case, you</p> <p>24 recall that Mr. Brassfield looked at some specific</p> <p>25 examples from the set of files that were available,</p>
<p style="text-align: right;">Page 67</p> <p>1 Q. Okay. So you -- in the Rivera case, you chose</p> <p>2 to review a subset of the total prosecutor files and</p> <p>3 public defender files and public -- and police files</p> <p>4 that were available, correct?</p> <p>5 MS. CARNEY: Objection. Form.</p> <p>6 MS. GOLDEN: Privilege.</p> <p>7 THE WITNESS: I examined the files that he</p> <p>8 listed as examples, I think is the word he used, or</p> <p>9 maybe both experts used that phrase as examples of</p> <p>10 discovery issues.</p> <p>11 BY MR. SWAMINATHAN:</p> <p>12 Q. The expert for the plaintiff in that matter</p> <p>13 also identified some examples that he highlighted in</p> <p>14 that case, too, correct?</p> <p>15 A. Boy, I don't recall right now.</p> <p>16 Q. Oh.</p> <p>17 A. That sounds correct, but I just don't recall.</p> <p>18 Q. You said it sounds correct, but you don't</p> <p>19 recall?</p> <p>20 A. Yeah.</p> <p>21 Q. Yeah. We can go back to it. In fact, let's</p> <p>22 do that right now. Let me pull this down. Okay.</p> <p>23 Showing you a document, marking as Exhibit 2. This is</p> <p>24 the Brassfield expert report in Fields. And, in fact,</p> <p>25 if we go to Page 1 here, you see this is the expert</p>	<p style="text-align: right;">Page 69</p> <p>1 correct?</p> <p>2 A. Yes. I don't remember the number that he used</p> <p>3 as examples, but I remember that he did that.</p> <p>4 Q. Okay. And in that case, you looked at all of</p> <p>5 the examples that he highlighted in his report in your</p> <p>6 own analysis, correct?</p> <p>7 A. Yes.</p> <p>8 Q. And then you also looked at additional files</p> <p>9 other than the ones that were just highlighted on Pages</p> <p>10 19 and ensuing pages of his report, correct?</p> <p>11 A. Yes.</p> <p>12 Q. Okay. In the Rivera matter, you looked only</p> <p>13 at the ones that were highlighted in the report, right?</p> <p>14 A. Yes.</p> <p>15 Q. Okay. You didn't look at all of the other</p> <p>16 prosecutor files and public defender files that had been</p> <p>17 disclosed during the discovery process, correct?</p> <p>18 A. I did not.</p> <p>19 Q. And in this case, you looked only at the</p> <p>20 examples that had been provided by Mr. Tiderington,</p> <p>21 correct?</p> <p>22 A. Well, I went beyond the examples by</p> <p>23 Mr. Tiderington because it was a -- a number of pages --</p> <p>24 or I'm sorry, documents on Page 51 that he included as</p> <p>25 examples, so I looked at those as well.</p>

<p style="text-align: right;">Page 70</p> <p>1 Q. In this --</p> <p>2 A. Those pages -- necessarily pages -- not</p> <p>3 necessarily -- each page wasn't necessarily its own</p> <p>4 file.</p> <p>5 Q. Explain what you mean by that. I'm not sure I</p> <p>6 understand.</p> <p>7 A. Like there might've been two or three or four</p> <p>8 or five pages which were one file. So it wasn't one --</p> <p>9 it wasn't one page that he cited equaled one file.</p> <p>10 Q. When -- for -- so some of the files that you</p> <p>11 have listed in your materials reviewed in this case, are</p> <p>12 you saying that you looked at the entire files that were</p> <p>13 provided to you or just pages from those files?</p> <p>14 A. I looked at the documents that he claimed --</p> <p>15 well, excuse me. I looked at the documents that he</p> <p>16 claimed were not in the defense file, and I looked in</p> <p>17 other places to see if they were included in the</p> <p>18 prosecutor file, if they were in the defense file, or if</p> <p>19 the file that he was relying upon was sufficient.</p> <p>20 Q. Okay. And let me take a step back and maybe</p> <p>21 try to try to do it in order. In this matter, the total</p> <p>22 number of files for which you look at the police file</p> <p>23 and the public defender file and the prosecutor file was</p> <p>24 approximately how many?</p> <p>25 A. Well, if I can examine my report, I believe --</p>	<p style="text-align: right;">Page 72</p> <p>1 Q. Okay. And looking at your list of materials</p> <p>2 reviewed, you discuss -- you identify a series of RD</p> <p>3 numbers for which you looked at the public defender file</p> <p>4 and the state's attorney file in addition to the police</p> <p>5 file, correct?</p> <p>6 A. Well, they're not -- they're not all files,</p> <p>7 but yes, I did examine those documents listed on those</p> <p>8 two pages.</p> <p>9 Q. Okay. And if you look at this list here of</p> <p>10 your materials reviewed, if we want to identify the</p> <p>11 instances in which you reviewed the police file as well</p> <p>12 as the corresponding public defender file and state's</p> <p>13 attorney file, we can identify those files from your</p> <p>14 materials reviewed, correct?</p> <p>15 A. I'm -- I'm examining it right now. Yes, I see</p> <p>16 the names of some of the offenders listed on this -- on</p> <p>17 the two-page summary that are also the names of the</p> <p>18 offenders in Section 5 of my report.</p> <p>19 Q. Okay. And so, for example, entry number five</p> <p>20 on your materials reviewed is the first instance in this</p> <p>21 list where you reviewed the police file as well as the</p> <p>22 public defender file and prosecutor file, correct?</p> <p>23 A. Yes. Well --</p> <p>24 Q. Okay. And then you looked at the police file</p> <p>25 in addition to the --</p>
<p style="text-align: right;">Page 71</p> <p>1 Q. Please.</p> <p>2 A. -- it's -- so I'm starting at Page 13 in my</p> <p>3 report. There was a comparison of eight defense</p> <p>4 attorney files to investigative files. Those -- I think</p> <p>5 he called them examples or something like that. But</p> <p>6 prior to that, in my report, starting on Page 10, there</p> <p>7 were reports of investigatory notes from other files</p> <p>8 that he claimed were not provided to defense counsel as</p> <p>9 well. So that could be -- let's see. One -- that could</p> <p>10 be another eight cases because I'd -- I'd have to go</p> <p>11 back and review it again, but it's another -- another</p> <p>12 number of cases and one case overlapped from the eight</p> <p>13 cases and the cases I examined from Page 50 -- the pages</p> <p>14 I examined from Page 51.</p> <p>15 Q. Okay. Let's look at --</p> <p>16 A. Page 51 of his report.</p> <p>17 Q. I'm just opening a document here. Sorry. All</p> <p>18 right. And just for maybe ease, I'm going to put your</p> <p>19 materials reviewed on the screen here as Exhibit C.</p> <p>20 Sorry, Exhibit 3. So Exhibit 3 is just a two-page</p> <p>21 document consisting of your materials reviewed in this</p> <p>22 matter. Do you see that, sir?</p> <p>23 (EXHIBIT 3 MARKED FOR IDENTIFICATION)</p> <p>24 A. I do.</p> <p>25 BY MR. SWAMINATHAN:</p>	<p style="text-align: right;">Page 73</p> <p>1 MS. GOLDEN: Well --</p> <p>2 Q. -- prosecutor file.</p> <p>3 MS. GOLDEN: I think -- Anand, you interrupted</p> <p>4 him.</p> <p>5 THE WITNESS: Yeah, I -- I -- I see the RD</p> <p>6 listed in number -- not -- RD listed number three</p> <p>7 and number four. And off the top of my head, I</p> <p>8 don't know what cases they associate with, but</p> <p>9 regarding the list of the materials reviewed, yes,</p> <p>10 number five appears to be the first case where I</p> <p>11 looked at the public defender file and the state's</p> <p>12 attorney file.</p> <p>13 BY MR. SWAMINATHAN:</p> <p>14 Q. Okay. And then -- and focusing again on</p> <p>15 instances where you looked at the police file, in</p> <p>16 addition to the public defender file, in state's</p> <p>17 attorney file, that's also the case in number -- for</p> <p>18 number six, right?</p> <p>19 A. Yes.</p> <p>20 Q. And number seven, correct?</p> <p>21 A. Yes.</p> <p>22 Q. So that's three, correct?</p> <p>23 A. Yes.</p> <p>24 Q. And we get to number 13 as well, right?</p> <p>25 A. Well, there was number eight.</p>

<p style="text-align: right;">Page 74</p> <p>1 Q. I'm sorry, number -- yeah. I'm sorry. What I</p> <p>2 did -- so five, six, seven, and number eight, right?</p> <p>3 A. Yes.</p> <p>4 Q. So five, six, seven, and eight are instances</p> <p>5 in which you reviewed the police file in addition to the</p> <p>6 public defender file and state's attorney file, correct?</p> <p>7 A. Right.</p> <p>8 Q. And then 13, 14, 15, 16, and 18 are instances</p> <p>9 in which you reviewed the public defender file and</p> <p>10 state's attorney file, correct?</p> <p>11 A. Yes. Number nine, I attempted to look at more</p> <p>12 than just the investigative file, but I think that was</p> <p>13 all I had at the time. But yes, the other ones are</p> <p>14 where I looked at public defender file and state's</p> <p>15 attorney file.</p> <p>16 Q. And then number 19 as well is one where you</p> <p>17 looked at the investigative file and -- strike that.</p> <p>18 Number 19 is another one where you reviewed the police</p> <p>19 files as well as the public defender file and state's</p> <p>20 attorney file, correct?</p> <p>21 A. Yes. See -- just one second, please.</p> <p>22 Q. Yes.</p> <p>23 A. Yes, I did.</p> <p>24 Q. Okay. And number nine is the Soto homicide,</p> <p>25 is the reference to the file in this particular case,</p>	<p style="text-align: right;">Page 76</p> <p>1 named Oscar Soto, correct?</p> <p>2 A. Yes. And I -- I believe that's one of the</p> <p>3 cases I discussed under Section 5 in my report.</p> <p>4 Q. That's correct. Okay. And so in this case --</p> <p>5 strike that. For purpose -- for the Reyes-Solache</p> <p>6 matter with RD number C198126, you reviewed the police</p> <p>7 investigative file from this litigation, correct?</p> <p>8 A. Yes. Not -- not to any great extent, but it</p> <p>9 was available for me to review.</p> <p>10 Q. Okay. And then did you -- when you say not to</p> <p>11 any great extent, what do you mean?</p> <p>12 A. I can't hear you.</p> <p>13 Q. Oh, you cut out there for a second. For the -</p> <p>14 - when you say you only reviewed the investigative file</p> <p>15 from this case, "not to any great extent," what do you</p> <p>16 mean?</p> <p>17 A. I -- I did not go through what was or was not</p> <p>18 tendered to -- in the manner that I did on the other</p> <p>19 files. I think I had a discussion at the end of my</p> <p>20 report regarding photos. I think that's the -- the part</p> <p>21 of the file I was focusing on.</p> <p>22 Q. Okay. So when you -- when you looked at the</p> <p>23 investigative file for the Soto homicide, fair to say</p> <p>24 you weren't going through that file in significant</p> <p>25 detail to understand the entire investigation, correct?</p>
<p style="text-align: right;">Page 75</p> <p>1 correct?</p> <p>2 A. I think it is, but the RD is different.</p> <p>3 Q. Yeah. Let's see.</p> <p>4 MS. GOLDEN: Could you repeat the question?</p> <p>5 MR. SWAMINATHAN: Yeah. One second.</p> <p>6 MS. CARNEY: The court reporter could do it.</p> <p>7 MR. SWAMINATHAN: Okay.</p> <p>8 MS. CARNEY: Well, could I have the last</p> <p>9 question read back, please?</p> <p>10 THE REPORTER: Yes. One second.</p> <p>11 (REPORTER PLAYS BACK REQUESTED QUESTION)</p> <p>12 MS. GOLDEN: Thanks.</p> <p>13 BY MR. SWAMINATHAN:</p> <p>14 Q. Okay. And just to clarify, Mr. Murray, I'll</p> <p>15 just represent to you C198126 is the RD number for the</p> <p>16 Reyes-Solache investigative file related to the double</p> <p>17 murder of the Soto mother and father, you understand?</p> <p>18 A. I do understand.</p> <p>19 Q. Okay. So number nine is a reference to the</p> <p>20 investigative file from the police department in the</p> <p>21 underlying homicide investigation that's a subject of</p> <p>22 this litigation, correct?</p> <p>23 A. Yeah. Yes.</p> <p>24 Q. Okay. And then number 19 is an investigative</p> <p>25 file for a different case involving a criminal defendant</p>	<p style="text-align: right;">Page 77</p> <p>1 A. No. Referring to the photographs, I did that.</p> <p>2 MS. CARNEY: Object to the form.</p> <p>3 BY MR. SWAMINATHAN:</p> <p>4 Q. So you focused on the photographs in the file?</p> <p>5 A. The -- the Polaroid photographs that were used</p> <p>6 during the trial.</p> <p>7 Q. Okay. I think I asked a poor question right</p> <p>8 -- one question before this, so let me re-ask it</p> <p>9 properly. You did not spend time going through the file</p> <p>10 -- investigative file for the Soto homicide in detail to</p> <p>11 understand the entire investigation?</p> <p>12 A. I -- I --</p> <p>13 MS. CARNEY: Object to form.</p> <p>14 THE WITNESS: I did not.</p> <p>15 BY MR. SWAMINATHAN:</p> <p>16 Q. Okay. And so the body of evidence that made</p> <p>17 up the incriminating evidence and any exculpatory</p> <p>18 evidence and witness interviews and so on, you didn't go</p> <p>19 through that in any detail?</p> <p>20 A. I did not.</p> <p>21 MS. CARNEY: Object to form.</p> <p>22 THE WITNESS: I did not.</p> <p>23 BY MR. SWAMINATHAN:</p> <p>24 Q. Okay. And you didn't review the public</p> <p>25 defender file that was produced related to the Soto</p>



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1 homicide?

2 A. I did not.

3 Q. And you didn't review the prosecutor file  
4 disclosed in this litigation associated with the Soto  
5 homicide, correct?

6 A. Only as pertains to the Polaroid photographs.  
7 Other than that, I did not.

8 Q. Now, when you say you reviewed the prosecutor  
9 file only as it pertains to the Polaroid photos, what do  
10 you mean?

11 A. Well, there was an exhibit and I'm trying to  
12 remember if it was in the state's attorney's file or I  
13 think it might even have been impounded with the Court.  
14 So I knew that came from the prosecutors during the  
15 trial. So to the extent that that exhibit was either  
16 copied into the prosecutor's file or was found  
17 elsewhere, that's an example of something that I  
18 would've reviewed potentially coming from the  
19 prosecutor's file.

20 Q. But you didn't have a copy of the entire  
21 prosecutor file for the Soto homicide, correct?

22 A. I did not review that file.

23 Q. Okay. And so we -- we've identified the list  
24 from your materials reviewed of the instances in which  
25 you -- let me put it back up. Sorry. We've identified

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1 the instances from your materials reviewed in which you  
2 conducted a comparison of the police file to the public  
3 defender file and state's attorney file, and it appears  
4 to be approximately -- four, five, six, seven, eight,  
5 nine, ten, ten cases where you had the prosecutor file,  
6 public defender file, and police file, correct?

7 A. That's what's listed there, but I -- I'm --  
8 looking at my reports, there's eight files I  
9 specifically looked at. And then there's, in that  
10 Section 5, I think it's it's six files in there. May  
11 -- well, maybe one of -- math has overlapped. So five  
12 additional files in there. So that would be 13 files I  
13 looked at anything that I had at my fingertips.

14 Q. Thirteen files through which you viewed  
15 anything and for some of those cases, it was just the  
16 underlying police file, not the all the comparator  
17 prosecutor file and PD file, correct?

18 MS. GOLDEN: Form.

19 THE WITNESS: I -- I looked at whatever I had.  
20 BY MR. SWAMINATHAN:

21 Q. Understood. And I want to make sure I just  
22 understand when we look at your materials reviewed, I  
23 think we went through the items on your materials  
24 reviewed, which are the items where you actually had a  
25 police file as well as the corresponding PD file and

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1 state's attorney file, correct?

2 A. That's -- that's in the listing. That's what  
3 it lists -- lists first, the investigative and RD file,  
4 then it lists a public defender and then the -- in the  
5 prosecutor's file third.

6 Q. Okay.

7 A. So --

8 Q. And those are number five? Six?

9 MS. GOLDEN: And Anand --

10 MR. SWAMINATHAN: Oh, I'm sorry.

11 MS. GOLDEN: You're flying and he is trying to  
12 answer questions and his cadence is much slower  
13 than --

14 MR. SWAMINATHAN: Okay. Yeah. Let me slow  
15 down. Let me slow down.

16 MS. GOLDEN: He was still answering that  
17 question.

18 BY MR. SWAMINATHAN:

19 Q. Go ahead.

20 A. No. So I was saying that in the materials  
21 reviewed, you can see that those are examples of where I  
22 -- I had an investigative file, a public defender file,  
23 and a prosecutor file to look at to compare other  
24 examples would be just an investigative file and an RD  
25 file. Other examples, I -- another example, I think --

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1 well, other examples where -- where the public defender  
2 file was wholly inadequate, I guess. So though I tried  
3 to examine them, there was either nothing or maybe just  
4 a couple pages of reports in there.

5 Q. Okay. So looking at this list of materials  
6 reviewed, the instances in which you had a police file,  
7 in addition to a prosecutor file and public defender  
8 file, were numbers five, six, seven, eight, 13, 14, 15,  
9 16, 18, and 19, correct?

10 A. As the way they're listed, yes.

11 Q. Okay. So that's ten files for which you had  
12 the police file and public defender file and state's  
13 attorney file, correct?

14 A. That's what's listed here, yes.

15 Q. Okay. And when you say that's what's listed  
16 here, you're not saying that you believe there's a bunch  
17 of other cases in which you had the police file,  
18 prosecutor file, and state's attorney -- and defense  
19 file, correct?

20 A. No. But as I said to you a few minutes ago, I  
21 -- I know in the Section 5 of my report, I know there's  
22 five cases in there. There's six cases, but math has  
23 overlapped. So I know there's five cases in there and  
24 off the top of my head, I don't recall what I examined.  
25 I -- I -- I might -- I might not have had all three of

<p style="text-align: right;">Page 82</p> <p>1 those things to compare and contrast to, but the -- the</p> <p>2 Section material, it -- it -- it -- from -- in my report</p> <p>3 is gleaned from Page 51 of the expert's report. And in</p> <p>4 that part, he is claiming that he's comparing</p> <p>5 investigative file to RD only.</p> <p>6 Q. Understood.</p> <p>7 A. So he -- he's not stating that he examined a</p> <p>8 public defender file, even though, like I said the one</p> <p>9 case, math has overlapped, there was a public defender</p> <p>10 file. So --</p> <p>11 Q. Understood. In this -- you indicated that in</p> <p>12 the Rivera case, you were aware that there were more</p> <p>13 prosecutor files, public defender files that</p> <p>14 corresponded to investigative files that had been</p> <p>15 tendered in discovery in that litigation than the number</p> <p>16 that you actually reviewed for purposes of your</p> <p>17 disclosure, correct?</p> <p>18 A. In Rivera?</p> <p>19 Q. Yes.</p> <p>20 A. Yes.</p> <p>21 Q. And in this case, do you understand that there</p> <p>22 were more prosecutor files and public defender files</p> <p>23 corresponding police files than you reviewed in this</p> <p>24 matter?</p> <p>25 MS. CARNEY: Objection. Form. Foundation.</p>	<p style="text-align: right;">Page 84</p> <p>1 this case was different than the analysis you conducted</p> <p>2 in Fields, correct?</p> <p>3 A. I believe I've answered that, yes.</p> <p>4 Q. Okay. And in this case, your analysis</p> <p>5 involved a review of many fewer files than you view --</p> <p>6 than you reviewed in Fields, correct?</p> <p>7 MS. CARNEY: Objection. Form. You can</p> <p>8 answer.</p> <p>9 THE WITNESS: As I said before, yes.</p> <p>10 BY MR. SWAMINATHAN:</p> <p>11 Q. Okay. And then you had started to say</p> <p>12 something a little while ago about the documents that</p> <p>13 you actually reviewed in conducting your comparisons. I</p> <p>14 want to ask you a little bit more about that. So let me</p> <p>15 just sort of preface that and then get into my</p> <p>16 questions. So when you -- strike that. In your</p> <p>17 materials review, you indicate that you received each of</p> <p>18 these, you know, investigative files, public defender</p> <p>19 files and CCSAO files in their entirety, did you review</p> <p>20 each of those files in their entirety or did you focus</p> <p>21 on portions of those files?</p> <p>22 A. I -- I focused on what Mr. Tiderington's --</p> <p>23 tiderington said was missing or not disclosed. That was</p> <p>24 the -- the focus of the examination.</p> <p>25 Q. Okay. Did you -- were you -- other than the</p>
<p style="text-align: right;">Page 83</p> <p>1 You can answer.</p> <p>2 THE WITNESS: I -- I believe I answered that</p> <p>3 yes.</p> <p>4 BY MR. SWAMINATHAN:</p> <p>5 Q. Okay. And ultimately, you reviewed only the</p> <p>6 portion of the public defender files and prosecutor</p> <p>7 files for the instances in which there Mr. Tiderington</p> <p>8 had provided an example, instance -- strike that. Strike</p> <p>9 that. In this case, you looked at a subset of the total</p> <p>10 prosecutor files and public defender files that had been</p> <p>11 tendered in discovery; is that fair?</p> <p>12 A. Not -- not completely accurate. I -- I looked</p> <p>13 at the eight cases that he used examples, but then I</p> <p>14 went into the Page 51 cases, which were number of pages</p> <p>15 like one -- one case might've been, you know, four or</p> <p>16 five pages. So not -- it's not a one-to-one</p> <p>17 relationship between pages of cases. And then, also, I</p> <p>18 looked at -- at the very conclusion, the photos -- the</p> <p>19 Polaroid photographs from the Solache-Reyes case.</p> <p>20 Q. Okay. And you understood that that was only a</p> <p>21 portion of the police files, prosecutor files, and</p> <p>22 public defender files that had been tendered in</p> <p>23 discovery in this case, correct?</p> <p>24 A. That's my understanding.</p> <p>25 Q. Okay. And so in that way, your analysis in</p>	<p style="text-align: right;">Page 85</p> <p>1 files themselves in their entirety, were you also</p> <p>2 provided with packets that contain just portions of</p> <p>3 those -- of the document from the file?</p> <p>4 MS. CARNEY: Objection. Form. You can</p> <p>5 answer.</p> <p>6 THE WITNESS: I'm -- I'm sorry, sir. I don't</p> <p>7 understand that question.</p> <p>8 BY MR. SWAMINATHAN:</p> <p>9 Q. Yeah. In other words, you could be provided</p> <p>10 with the entire files, right? Or you could be provided</p> <p>11 with the relevant portions of the file as identified by</p> <p>12 Mr. Tiderington?</p> <p>13 A. Oh, no. I had the entire files.</p> <p>14 Q. Okay. And then in terms of -- did Counsel</p> <p>15 ever -- for each of these file for any -- strike that.</p> <p>16 For any of the files listed in your materials reviewed,</p> <p>17 did Counsel provide you with any specific documents from</p> <p>18 those files separate from the entire file?</p> <p>19 A. No. I mean, he -- I -- I -- I was provided</p> <p>20 the entire file, so there was not a separate part of the</p> <p>21 file that was provided. I was given the file.</p> <p>22 Q. Okay. And you weren't given subsets of the</p> <p>23 file to focus on?</p> <p>24 A. No. I mean, the -- the -- my focus came out</p> <p>25 of the plaintiff's expert's report, what he said was</p>

<p style="text-align: right;">Page 86</p> <p>1 missing.</p> <p>2 Q. Okay. Did you perform any work -- strike</p> <p>3 that. In Mr. Tiderington's report in this matter, he</p> <p>4 has a number of attachments to his report. You saw</p> <p>5 those, correct?</p> <p>6 A. Yes, I did see that.</p> <p>7 Q. Okay. And one of his attachments is an</p> <p>8 attachment that's a huge spreadsheet that lists out all</p> <p>9 the documents for which he conducted an analysis of</p> <p>10 whether it was in the public defender file and so on. Do</p> <p>11 you recall that attachment?</p> <p>12 MS. CARNEY: Objection. Misstates the</p> <p>13 evidence. You can answer.</p> <p>14 THE WITNESS: I -- I -- the attachments with</p> <p>15 the -- with the different charts with the -- that</p> <p>16 were created, I would refer to them as I needed to.</p> <p>17 I didn't spend time reading every one of the</p> <p>18 entries and whether they're accurate or not.</p> <p>19 BY MR. SWAMINATHAN:</p> <p>20 Q. And that was going to be my question. I know</p> <p>21 you obviously looked at the examples Mr. Tiderington</p> <p>22 disclosed in his report itself, right? He basically</p> <p>23 wrote out a paragraph or two about each of those example</p> <p>24 cases, correct?</p> <p>25 A. Yeah. I was -- he would say in this report,</p>	<p style="text-align: right;">Page 88</p> <p>1 THE WITNESS: I did not.</p> <p>2 MR. SWAMINATHAN: Okay. We've been going for</p> <p>3 another good chunk. Should we take a quick five-</p> <p>4 minute break?</p> <p>5 MS. CARNEY: Yeah, that'd be great.</p> <p>6 MR. SWAMINATHAN: Okay.</p> <p>7 THE REPORTER: Okay. Going off the record.</p> <p>8 The time is 11:48 a.m.</p> <p>9 (OFF THE RECORD)</p> <p>10 THE REPORTER: We're back on the record. The</p> <p>11 time is 12:06 p.m.</p> <p>12 BY MR. SWAMINATHAN:</p> <p>13 Q. Sir, would you agree with me that your</p> <p>14 opinions in this case are very similar to your opinions</p> <p>15 in the Fields and Rivera cases?</p> <p>16 MS. CARNEY: Objection. Form. You can</p> <p>17 answer.</p> <p>18 THE WITNESS: Regarding a process of -- yes.</p> <p>19 BY MR. SWAMINATHAN:</p> <p>20 Q. Okay. And in the Fields case, you basically</p> <p>21 opined that you saw no evidence of any systemic failure</p> <p>22 to disclose Brady evidence; is that correct?</p> <p>23 A. That's correct.</p> <p>24 Q. And in the Rivera case, you reached the same</p> <p>25 conclusion that there was no evidence of systemic</p>
<p style="text-align: right;">Page 87</p> <p>1 this -- the -- in a certain case, certain pages are</p> <p>2 missing or -- or he believed not tendered at all. So</p> <p>3 those would be the pages I'd look at. And to the degree</p> <p>4 that a case was either lined out in one of the</p> <p>5 attachments where he considered he would not examine it,</p> <p>6 I would point that out.</p> <p>7 Q. In the -- did you spend time going through</p> <p>8 each of the rows that were in his Attachment G that</p> <p>9 listed out for each specific investigation, what</p> <p>10 documents were not contained in the public defender</p> <p>11 file?</p> <p>12 A. I did not.</p> <p>13 Q. Okay. Did you conduct any analysis of the</p> <p>14 blue columns in his attachment that laid out his</p> <p>15 analysis of whether the general orders and special</p> <p>16 orders were being followed?</p> <p>17 MS. CARNEY: Objection. Misstates the</p> <p>18 evidence. You can answer.</p> <p>19 THE WITNESS: I did not.</p> <p>20 BY MR. SWAMINATHAN:</p> <p>21 Q. And did you conduct any analysis of his work</p> <p>22 in the purple columns about the permanent retention</p> <p>23 files?</p> <p>24 MS. CARNEY: Objection. Misstates the</p> <p>25 evidence. You can answer.</p>	<p style="text-align: right;">Page 89</p> <p>1 failure to disclose information to criminal defendants,</p> <p>2 correct?</p> <p>3 A. Yes.</p> <p>4 Q. And in this case, you reached that same</p> <p>5 conclusion that there's no evidence of a systemic</p> <p>6 problem with failing to disclose information from police</p> <p>7 reports to criminal defendants, correct?</p> <p>8 A. Yes.</p> <p>9 Q. Okay. And you've never opined in any other</p> <p>10 cases other than these three cases, correct?</p> <p>11 A. I've only been expert on three cases.</p> <p>12 Q. Okay. And all three cases were for the</p> <p>13 Chicago Police Department, correct?</p> <p>14 A. Yes.</p> <p>15 Q. Okay. Your opinions in this case, did you cut</p> <p>16 and paste any portions of your opinions in this case</p> <p>17 from your prior reports?</p> <p>18 A. Yes.</p> <p>19 MS. CARNEY: Oh, hold on. Obviously, the</p> <p>20 answer can now stand because he answered, but to</p> <p>21 the extent you're going to ask him any more</p> <p>22 questions about the drafting of his report, I'm</p> <p>23 going to object and instruct him not to answer</p> <p>24 based on the --</p> <p>25 BY MR. SWAMINATHAN:</p>

<p style="text-align: right;">Page 90</p> <p>1 Q. Yeah. And I don't want to go into the details 2 of your drafting process and back and forth with 3 Counsel, which it is -- Counsel's correctly identifying 4 as subject to a -- to a privilege. I'm really just 5 asking you about the content of the report itself as 6 disclosed, okay? So with that caveat, is it fair to say 7 that there are portions of your report in this case that 8 are basically paragraphs that are basically identical to 9 paragraphs in your prior reports in Fields and Rivera? 10 MS. CARNEY: Object to the form. And I'm 11 going to instruct him not to answer on the basis of 12 work product in keeping with the previous 13 objections that you have lodged in depositions of 14 your experts. I'm not going to let him talk about 15 any of the portions in the drafting of his report. 16 MR. SWAMINATHAN: But I'm not -- okay. 17 Understood. I'm not going to ask him about the 18 drafting process at all. I'm just asking him about 19 the final disclosed opinion in each case. Do they 20 contain -- you know, that -- I could put them all 21 up on the three one by one next to each other and 22 say, do these paragraphs match these paragraphs one 23 by one? I don't want to spend an hour doing that 24 and I -- but I could. I mean, we can do that if we 25 need to do that. So let me ask the question. And</p>	<p style="text-align: right;">Page 92</p> <p>1 Rivera and Fields, correct? 2 A. I think almost all of them are -- are -- are 3 new. 4 Q. Okay. But -- okay. But then the overall 5 opinions that you reached are the same in each of the 6 cases, correct? 7 A. That there's not a systemic failure to 8 disclose documents, yeah. That -- that opinion is 9 consistent. 10 Q. Okay. And you have some opinions about the 11 disclosure obligations of the prosecutor's office in all 12 three of your opinions, correct? 13 A. Disclosure to defense -- defense attorneys? 14 Q. Correct. 15 A. Yes. 16 Q. And you have some opinions in all three cases 17 about the files that were provided by the public 18 defender's office and the veracity of those files, 19 correct? 20 MS. GOLDEN: Form. 21 MS. CARNEY: You can answer. 22 THE WITNESS: I don't -- I don't know the 23 veracity is the word I'd use. I definitely use 24 completeness. 25 BY MR. SWAMINATHAN:</p>
<p style="text-align: right;">Page 91</p> <p>1 then, Theresa, you can object if you think you need 2 to. 3 BY MR. SWAMINATHAN: 4 Q. So let me clarify my question. Your final 5 version of your report -- I'm not asking the process 6 that resulted in a final version of the Fields report or 7 the Rivera report or this report, okay? So with that 8 caveat, the final version that you disclosed of your 9 report in this matter, would you agree that it contains 10 paragraphs that are identical to paragraphs contained in 11 your final disclosed reports in Rivera and Fields? 12 MS. CARNEY: Okay. That's fine. You can 13 answer. 14 THE WITNESS: There are paragraphs, yes, that 15 are similar to or nearly identical to paragraphs 16 regarding the legal standards from the other 17 report. 18 BY MR. SWAMINATHAN: 19 Q. Okay. And you looked at different comparator 20 files in this case than you looked at in Fields and 21 Rivera, correct? 22 A. I'm sorry, I don't understand the question. 23 Q. You looked at a different set of underlying 24 police report -- police files and prosecutor files and 25 PD files in case -- in this case than you looked at in</p>	<p style="text-align: right;">Page 93</p> <p>1 Q. Okay. And ultimately, the overall opinions 2 you're offering in this case are consistent with the 3 opinions you offered in Rivera and Fields, correct? 4 MS. GOLDEN: Objection. Asked and answered. 5 MS. CARNEY: You can answer it again. 6 THE WITNESS: Yes. 7 BY MR. SWAMINATHAN: 8 Q. And in other words, you looked at different 9 sets of underlying files, but you reached the same 10 conclusions in this case as you did in Rivera and 11 Fields, correct? 12 MS. GOLDEN: Same objections. 13 THE WITNESS: Yes. 14 BY MR. SWAMINATHAN: 15 Q. And are there any opinions that you're 16 offering in this case that are new, something you didn't 17 offer in Fields or Rivera? 18 MS. CARNEY: Form. You can answer. 19 THE WITNESS: I -- I don't think so. 20 BY MR. SWAMINATHAN: 21 Q. Okay. You -- well, strike that. In terms of 22 the -- strike that. All right. I want to ask you about 23 a little bit about your experience. You indicated 24 previously that you have spent your entire career 25 working in prosecutors' offices, correct?</p>



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1 A. Yes.

2 Q. And you're not holding yourself out as an  
3 expert in this case in police practices, are you?

4 A. The what? How they conduct investigation? No.

5 Q. Okay. Are you holding yourself out as an  
6 expert in this case on police procedures?

7 A. What do you mean by -- can you explain what  
8 you mean by procedure?

9 Q. Yeah. In other words, how police officers are  
10 taught to go about conducting the day-to-day work of  
11 conducting investigations?

12 A. I don't know how they're -- how or -- how  
13 they're taught, no.

14 Q. Okay. And are you holding yourself out as an  
15 expert in this case on the generally accepted police  
16 practices around the country?

17 A. No.

18 Q. Are you holding yourself out as an expert in  
19 this case on the national standards for police practices  
20 in this country?

21 A. I think that's the same question. No.

22 Q. Okay. Are you holding yourself out as an  
23 expert in this case on police policy writing?

24 A. No.

25 Q. Are you holding yourself out as an expert in

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1 this case on police training?

2 A. I think you just asked that, but no, I'm not.

3 Q. The last question was policy writing and this  
4 one was training, but I appreciate you answering the  
5 question. Before you were retained in this case, you  
6 had never reviewed -- actually seen any Chicago Police  
7 Department policies; is that correct?

8 MS. CARNEY: Objection. Form. Misstates his  
9 testimony.

10 THE WITNESS: Prior to this case, no. I had  
11 reviewed the special order prior to Fields.

12 BY MR. SWAMINATHAN:

13 Q. Sorry. Yeah. That -- I've asked the question  
14 before. Let me ask again. Before you consulted in the  
15 Fields matter, you had never reviewed any Chicago Police  
16 Department general orders or special orders, correct?

17 MS. CARNEY: Objection. Form.

18 THE WITNESS: You'd have to narrow that down  
19 because I -- I -- I know I've looked at other  
20 general orders over the years, but not -- not the  
21 general orders regarding the keeping of notes and  
22 the keeping of investigative materials.

23 BY MR. SWAMINATHAN:

24 Q. Okay. And so the -- you have -- before you  
25 were retained in the Fields matter, you'd never reviewed

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1 the Chicago Police Department's special orders regarding  
2 the documentation and file retention associated with  
3 investigations, correct?

4 A. I was aware of them, but I had not reviewed  
5 them.

6 Q. Okay. And so during your time working in the  
7 Cook County State's Attorney's Office, you did not --  
8 well, I'll strike that. I've already asked you that.  
9 Prior to your retention by the by the City of Chicago to  
10 work in the Fields matter, did you have any knowledge  
11 about whether any of the of the police department,  
12 general orders or special orders regarding documentation  
13 and file retention were amended at any point?

14 MS. CARNEY: Objection. Form. You can answer  
15 if you understand.

16 THE WITNESS: I don't think I understand your  
17 question.

18 BY MR. SWAMINATHAN:

19 Q. So for example, you said you were aware of  
20 Special Order 83-1, but you hadn't actually read it,  
21 correct?

22 A. That's correct.

23 Q. Were you aware of any amendments or changes to  
24 Special Order 83-1 during your time working in the Cook  
25 County State's Attorney's Office?

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1 A. I -- I don't think I was aware of amendments  
2 to it, but I obviously filed -- investigative file  
3 retention was a topic during that time period. So to  
4 the extent that there were amendments to it, it was up  
5 to us to obtain police reports. So I know we were  
6 continuing our practices on that front.

7 Q. And were there changes to your practices  
8 around getting access to police reports as there were  
9 amendments or changes to police department policies on  
10 that issue?

11 MS. GOLDEN: Foundation.

12 THE WITNESS: No. I -- we would pursue police  
13 reports through all the -- all the manners I've  
14 described earlier.

15 BY MR. SWAMINATHAN:

16 Q. During your time working in the Cook County  
17 State's Attorney's Office, did you ever review or see  
18 any written policies of the subpoena service unit?

19 A. No.

20 Q. At any point while you were working in the  
21 Cook County State's Attorney's Office, did you become  
22 aware of any written policies in the subpoena service  
23 unit?

24 A. I'm not sure if I was aware of their policies  
25 other than for -- for a period of time, we would send

<p style="text-align: right;">Page 98</p> <p>1 subpoenas and document requests and -- and inter-office  2 forms to the area as well as to 11th and State or 35th  3 and Michigan. And at some point during that time  4 period, they stressed that we should just send all our  5 requests to 11th and State or 35th and Michigan to  6 obtain the reports. So to the degree, that's the  7 subpoena service or whatever you refer to it as that's  8 something I was aware of.</p> <p>9 Q. Okay. And so you were aware of an instruction  10 to you as a prosecutor about where to submit your  11 requests to for subpoenas, correct?</p> <p>12 A. That's correct.</p> <p>13 Q. Okay. But in terms of the process within the  14 police department, once those subpoena requests were  15 received, you are not aware of any policies associated  16 with how the police department then responded to those  17 subpoena requests, correct?</p> <p>18 A. Policies, no.</p> <p>19 Q. And you're not aware of any procedure manuals  20 that provided guidance to police staff about how to  21 respond to those subpoena requests, correct?</p> <p>22 A. I'm not familiar with their policy manuals on  23 subpoena requests.</p> <p>24 Q. Have you ever -- strike that. Are you aware  25 of any training that was provided to individuals within</p>	<p style="text-align: right;">Page 100</p> <p>1 and Michigan that they were circling items in the  2 subpoena request form and sending them to different  3 areas. We'd get the same Xeroxed subpoena from  4 different areas with different things circled or checked  5 off on it. So that's not a policy manual examined, but  6 I think it was evidence of their practice possibly.</p> <p>7 Q. Did you review anything in the course of your  8 expert work across these three cases that constituted  9 some kind of internal guidance about where to go and how  10 to go about collecting material and response to  11 subpoena?</p> <p>12 MS. CARNEY: Objection. Form. You can  13 answer.</p> <p>14 THE WITNESS: Is that -- you're saying police  15 department forms? I'm sorry. Police department  16 documents? No.</p> <p>17 BY MR. SWAMINATHAN:</p> <p>18 Q. Yes. Okay. In the course of your expert work  19 in this case or Rivera or Fields, did you go out and  20 review any documents associated with police practices in  21 any other jurisdictions?</p> <p>22 A. No.</p> <p>23 Q. Did you review any policy police department  24 policies within in any other jurisdictions?</p> <p>25 A. No.</p>
<p style="text-align: right;">Page 99</p> <p>1 the police department about how to respond to subpoena  2 requests?</p> <p>3 A. No.</p> <p>4 Q. Are you aware of any training ever received to  5 anybody who staffed the subpoena service unit?</p> <p>6 A. I -- I -- I don't know what training, if any,  7 they received. So I -- I can't -- I don't know that to  8 answer that, whether it was extensive or minimal or  9 whether those was a manual on it or a general order or  10 special order. I don't know those things.</p> <p>11 Q. In the -- in your work as an expert on this  12 case and Fields and Rivera, did you review any documents  13 that provided you with guidance on what the policies  14 were within the Chicago Police Department for responding  15 to subpoena requests?</p> <p>16 A. Documents regarding policy, no.</p> <p>17 Q. During your course of your expert work in this  18 case and Fields and Rivera, did you review any documents  19 that constituted checklists or guidelines or procedure  20 manuals to guide individuals within the police  21 department on collecting materials as requested in  22 subpoenas?</p> <p>23 A. Well, checklists is kind of a broad term. I  24 did not review their policy manuals, but it was obvious  25 in the subpoenas that we sent to 11th and State or 35th</p>	<p style="text-align: right;">Page 101</p> <p>1 Q. In the course of your extra work in this  2 matter, did you review any research or studies regarding  3 Brady disclosures in jurisdictions across the country?</p> <p>4 A. Can you rephrase that?</p> <p>5 Q. Yeah. During the course of your expert work  6 in these three cases, did you go out and look at any  7 research or studies regarding Brady disclosures?</p> <p>8 A. I did not look at research or studies.</p> <p>9 Q. Okay. And did you, in the course of your work  10 on this matter, investigate what the police -- what the  11 what the generally accepted police practices were around  12 the country with regard to the disclosure of information  13 in police files?</p> <p>14 MS. CARNEY: Object to form. Go ahead.</p> <p>15 THE WITNESS: You -- can you rephrase that? I  16 -- I didn't quite -- quite get the -- the -- the --  17 the middle part, I think, actually.</p> <p>18 BY MR. SWAMINATHAN:</p> <p>19 Q. Yeah. In the course of your expert work on  20 these three matters, did you go out and review any of  21 the generally accepted police practices on the  22 disclosure of information in police files to prosecutors  23 and criminal defendants?</p> <p>24 A. You mean generated by police agencies?</p> <p>25 Q. Sure.</p>

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1 A. I have not.

2 Q. Okay. And do you consider yourself to be an

3 expert on how police departments should set up their

4 policies to address their Brady disclosure obligations?

5 A. No.

6 Q. And do you claim to be an expert on how police

7 departments should set up their practices with regard to

8 the documentation and disclosure of information from

9 their police files?

10 A. No.

11 Q. Do you claim to be an expert in how police

12 departments should go about training officers in their

13 documentation and disclosure obligations?

14 A. No.

15 Q. And you claim to be an expert in how police

16 departments should go about monitoring and auditing

17 their policies related to disclosure and documentation?

18 A. How they should monitor their own -- I'm

19 sorry, their own procedures?

20 Q. Yeah. Yeah, let -- yeah, exactly. But let me

21 ask it again. So it's may -- maybe I was a little

22 unclear. And do you claim to be an expert on how police

23 departments should set up their policies or practices --

24 strike that. Do you claim to be an expert in how police

25 departments should conduct monitoring or auditing to

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1 ensure that their policies are followed with regard to

2 documentation and disclosure of police files?

3 A. No.

4 Q. And I may have asked you this, so I apologize

5 if so, but you've never reviewed any Brady related

6 policies of any other police department other than the

7 Chicago Police Department, correct?

8 MS. CARNEY: Objection. Form. You can answer

9 if you understand.

10 THE WITNESS: Other agencies' Brady policies?

11 BY MR. SWAMINATHAN:

12 Q. Yes.

13 A. I have not.

14 Q. And you have not reviewed any other police

15 agency other than the Chicago Police Department's

16 policies regarding the documentation and disclosure of

17 police files, correct?

18 A. I have not looked at other agencies, no.

19 Q. Okay. And if we look at your materials

20 reviewed in this matter, this is Exhibit 3, your list of

21 materials reviewed does not include the Chicago Police

22 Department policies associated with disclosure -- with

23 documentation and disclosure, correct?

24 A. No, they do not.

25 Q. Okay. And you didn't review those documents

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1 in preparing your report in this case, correct?

2 A. No, I did not.

3 Q. Okay. You didn't rely on those documents --

4 strike that. And you didn't rely on the Chicago Police

5 Department policies regarding documentation and

6 disclosure in preparing your report in this case,

7 correct?

8 A. Well, I -- I did examine the -- the Special

9 Order 83-1 and what was included in there. But any

10 other policy manuals, no, I did not.

11 Q. Okay. And when you say you looked at Special

12 Order 83-1, you had previously looked at 83-1 in the

13 context of your work in Fields and Rivera, correct?

14 A. That is correct.

15 Q. Okay. But you didn't receive it again and

16 review it again in preparing your report in this case,

17 correct?

18 MS. CARNEY: Objection. Form. Misstates his

19 testimony.

20 THE WITNESS: I -- I definitely reviewed it

21 again.

22 BY MR. SWAMINATHAN:

23 Q. In preparing your report in this case?

24 A. Yes.

25 Q. Okay. And so you -- so your materials

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1 reviewed listed here should actually include an

2 additional item, which is Special Order 83-1; is that

3 right?

4 A. It should.

5 Q. Okay. Any other documents that you reviewed

6 in preparation in preparing your report that are not

7 disclosed here on your materials reviewed?

8 A. None that I'm aware of.

9 Q. Okay. Are there any other special orders that

10 you reviewed in preparing your report in this case,

11 other than Special Order 83-1?

12 A. No.

13 Q. Okay. And are there any other special orders

14 that you relied on in preparing in your -- preparing

15 your opinions in this case, other than Special Order

16 83-1?

17 A. No.

18 Q. Okay. And so you did not review special Order

19 83-2 in preparing your opinions in this case, correct?

20 A. I did not.

21 Q. If I asked you what was contained in Special

22 Order 83-2, could you tell me?

23 A. Not off the top of my head. I -- I know I --

24 I -- I looked at it maybe prior to Fields, but I -- I

25 don't recall what's in it.



<p style="text-align: right;">Page 106</p> <p>1 Q. Okay. And you didn't you -- and you don't --</p> <p>2 you did not study -- strike that. You did not study</p> <p>3 Special Order 83-2 and offer opinions about it in your</p> <p>4 report, correct?</p> <p>5 A. I did not.</p> <p>6 MS. GOLDEN: Foundation.</p> <p>7 BY MR. SWAMINATHAN:</p> <p>8 Q. Go ahead.</p> <p>9 A. Prior to this case, I did -- I did not.</p> <p>10 Q. Okay. And in your materials reviewed, you</p> <p>11 didn't -- strike that. You did not review Special Order</p> <p>12 8-3 in preparing your report in this case, correct?</p> <p>13 MS. GOLDEN: Objection. Foundation.</p> <p>14 THE WITNESS: Prior to this case, no.</p> <p>15 Q. And prior -- and I say prior to this case, you</p> <p>16 mean in preparing your report in this case, you did not</p> <p>17 review Special Order 86-3, correct?</p> <p>18 A. I did not.</p> <p>19 Q. And you didn't rely on Special Order 86-3 in</p> <p>20 preparing this report, correct?</p> <p>21 A. I did not.</p> <p>22 Q. Okay. And you don't reference Special Order</p> <p>23 86-3 in your report?</p> <p>24 A. No, I -- I -- I think I say 83-1 and other</p> <p>25 orders, but no, I did not specifically review it -- or</p>	<p style="text-align: right;">Page 108</p> <p>1 questioning. In preparing your report in this matter,</p> <p>2 you did not review documents related to the George Jones</p> <p>3 homicide investigation from in or around 1981, correct?</p> <p>4 MS. CARNEY: Objection. Form. You can</p> <p>5 answer.</p> <p>6 THE WITNESS: In -- in preparing for this</p> <p>7 report, I did not.</p> <p>8 BY MR. SWAMINATHAN:</p> <p>9 Q. Did you review the court opinions related to</p> <p>10 the Jones or Palmer cases from the early 1980s?</p> <p>11 A. I did not.</p> <p>12 Q. In preparing your report in this matter, did</p> <p>13 you review any of the hearing transcripts related to</p> <p>14 Jones and Palmer?</p> <p>15 A. I did not.</p> <p>16 Q. In preparing your report in this matter, did</p> <p>17 you review any of the deposition testimony of James</p> <p>18 Hickey about what happened in Jones and Palmer?</p> <p>19 A. I did not.</p> <p>20 Q. Have you ever reviewed the court opinions</p> <p>21 related to the Jones and Palmer cases from the early</p> <p>22 1980s?</p> <p>23 A. I -- I -- I may have read either or both of</p> <p>24 them, but -- and if I did, it would've been prior to</p> <p>25 Fields, but I -- I -- I don't recall. Again, I don't</p>
<p style="text-align: right;">Page 107</p> <p>1 prior to compiling this report.</p> <p>2 Q. And if I asked you what was in Special Order</p> <p>3 86-3, could you tell me?</p> <p>4 A. Could not.</p> <p>5 Q. And fair to say you did not study Special</p> <p>6 Order 86-3 and offer opinions about it in your report?</p> <p>7 MS. GOLDEN: Foundation.</p> <p>8 MS. CARNEY: Form.</p> <p>9 THE WITNESS: Well, as -- as -- as I said, I</p> <p>10 did not review it prior to compiling this report,</p> <p>11 but I did mention 83-1 and -- and later orders. So</p> <p>12 to the extent that I had reviewed it prior to</p> <p>13 Fields, I knew there were other orders that were</p> <p>14 regulated investigative files, compilation and</p> <p>15 retention and -- and -- and providing them. I -- I</p> <p>16 did not specifically review them in that manner.</p> <p>17 BY MR. SWAMINATHAN:</p> <p>18 Q. Okay. And ultimately you didn't study 86-3</p> <p>19 and offer opinions about that particular policy in your</p> <p>20 report in this matter, correct?</p> <p>21 A. Did -- did not.</p> <p>22 Q. Okay. When you say "I did not," that is</p> <p>23 correct?</p> <p>24 A. That's correct.</p> <p>25 Q. Okay. And that's my apologies for the</p>	<p style="text-align: right;">Page 109</p> <p>1 recall if I read them or maybe just cut to the head</p> <p>2 notes or something like that, frankly.</p> <p>3 Q. But fair to say you weren't -- you didn't</p> <p>4 remember the contents of those court opinions related to</p> <p>5 Jones and Palmer at the time you were writing your</p> <p>6 report in this case, correct?</p> <p>7 A. That's correct.</p> <p>8 Q. Okay. And so you didn't rely on -- I -- on</p> <p>9 the Jones and Palmer court opinions in offering your</p> <p>10 opinions in this case, correct?</p> <p>11 A. I did not.</p> <p>12 Q. And you didn't rely on any of the information</p> <p>13 in the hearing transcripts related to Jones and Palmer</p> <p>14 informing your opinions in this case, correct?</p> <p>15 A. I did not.</p> <p>16 Q. And you did not rely on any testimony of James</p> <p>17 Hickey or any other Chicago police officers about what</p> <p>18 happened in Jones and Palmer, correct?</p> <p>19 A. I did not.</p> <p>20 Q. Did you review any documents in preparing your</p> <p>21 report in this case that talked about what the problems</p> <p>22 within the Chicago Police Department were that were</p> <p>23 being solved by the Special Order 83-1?</p> <p>24 MS. CARNEY: Objection. Form. You can</p> <p>25 answer.</p>

<p style="text-align: right;">Page 110</p> <p>1 THE WITNESS: Yeah. I'm sorry. Could you</p> <p>2 restate that question?</p> <p>3 BY MR. SWAMINATHAN:</p> <p>4 Q. Yeah. In preparing your report in this case,</p> <p>5 did you review any documents that discussed what the</p> <p>6 underlying problems were that resulted in Special order</p> <p>7 83-1?</p> <p>8 MS. CARNEY: Objection. Form.</p> <p>9 THE WITNESS: I did not review documents that</p> <p>10 described the underlying issues.</p> <p>11 BY MR. SWAMINATHAN:</p> <p>12 Q. Okay. And so in preparing your report in this</p> <p>13 case, you didn't review any documents that indicated to</p> <p>14 you -- strike that. And if you didn't review documents</p> <p>15 about what the problems were that Special Order 83-1 was</p> <p>16 intended to solve, you're not intending to offer</p> <p>17 opinions in this case about whether 83-1 was an</p> <p>18 effective solution to those problems, correct?</p> <p>19 MS. CARNEY: Objection. Form. Foundation.</p> <p>20 You can answer.</p> <p>21 THE WITNESS: Well, I knew from referring --</p> <p>22 from -- from reading 83-1, that there was a direct</p> <p>23 about to make sure that investigative materials</p> <p>24 were retained. So I knew that before I examined</p> <p>25 the -- the plaintiff's expert's report and made my</p>	<p style="text-align: right;">Page 112</p> <p>1 BY MR. SWAMINATHAN:</p> <p>2 Q. You don't know what specific problems any</p> <p>3 federal judges identified with CPD's policies before</p> <p>4 Special Order 83-1, correct?</p> <p>5 A. I do not.</p> <p>6 Q. And so you don't know whether Special Order</p> <p>7 83-1 sufficiently addressed the problems that had been</p> <p>8 identified by any federal judges, correct?</p> <p>9 MS. CARNEY: Objection. Form.</p> <p>10 THE WITNESS: I -- I don't know what the</p> <p>11 federal -- what the federal judge opined.</p> <p>12 BY MR. SWAMINATHAN:</p> <p>13 Q. Okay. And so you can't say whether or not the</p> <p>14 policy solved those problems that the federal judge</p> <p>15 opined on; is that fair?</p> <p>16 MS. CARNEY: Objection. Form.</p> <p>17 THE WITNESS: I only know what the -- the</p> <p>18 order tried to accomplish.</p> <p>19 BY MR. SWAMINATHAN:</p> <p>20 Q. You know what the you know what the order</p> <p>21 said, correct?</p> <p>22 A. Yeah, I can read. I can know what -- what it</p> <p>23 says.</p> <p>24 Q. Well, understood. But you don't know what</p> <p>25 specifically were the -- strike that. Do you know what</p>
<p style="text-align: right;">Page 111</p> <p>1 analysis.</p> <p>2 BY MR. SWAMINATHAN:</p> <p>3 Q. Are you claiming to have a complete</p> <p>4 understanding of what the problems were that had been</p> <p>5 identified within the Chicago Police Department that</p> <p>6 resulted in Special Order 83-1?</p> <p>7 MS. CARNEY: Objection. Form. Assumes facts</p> <p>8 not in evidence. You can answer.</p> <p>9 THE WITNESS: A -- a complete understanding. I</p> <p>10 -- I think it's evident from the 83-1 that they</p> <p>11 were emphasizing the retention of investigative</p> <p>12 matters, which had been referred to as Street Files</p> <p>13 before, and to retain them and make them available.</p> <p>14 BY MR. SWAMINATHAN:</p> <p>15 Q. And you have that knowledge -- and you're</p> <p>16 saying you have knowledge about what the problems were</p> <p>17 that 83-1 was intended to solve based on reading 83-1-1</p> <p>18 itself; is that right?</p> <p>19 MS. CARNEY: Objection. Form. Misstates his</p> <p>20 testimony. You can answer.</p> <p>21 THE WITNESS: I know from reading 83-1 and --</p> <p>22 and knowing that -- that there was a -- a change in</p> <p>23 policy to make sure investigative materials, which</p> <p>24 were referred to as Street Files, to make sure</p> <p>25 those items were retained.</p>	<p style="text-align: right;">Page 113</p> <p>1 problems were specifically identified by Chicago Police</p> <p>2 officials that needed to be fixed leading to Special</p> <p>3 Order 83-1?</p> <p>4 MS. CARNEY: Objection. Form. Asked and</p> <p>5 answered. Assumes facts not in evidence. You can</p> <p>6 answer.</p> <p>7 THE WITNESS: They were from the Street Files</p> <p>8 allegations, which were in newspapers, what they</p> <p>9 were trying to resolve was to create a retention of</p> <p>10 investigative materials as part of -- part of the</p> <p>11 police department investigations. So those</p> <p>12 materials will be available later for motion for</p> <p>13 defendants for trials for prosecutors.</p> <p>14 BY MR. SWAMINATHAN:</p> <p>15 Q. And is that the only issue that the Chicago</p> <p>16 Police Department identified that needed to be solved?</p> <p>17 MS. CARNEY: Objection. Form. Foundation.</p> <p>18 THE WITNESS: I don't claim that was the only</p> <p>19 issue that they're trying to address, but that's</p> <p>20 the one that jumps off the pages.</p> <p>21 BY MR. SWAMINATHAN:</p> <p>22 Q. Okay. And to the extent there were other</p> <p>23 problems -- strike that. Do you know what other</p> <p>24 problems the Chicago Police Department identified that</p> <p>25 needed to be solved?</p>

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1 MS. CARNEY: Objection. Form.  
 2 THE WITNESS: I do not know what, if any,  
 3 other problems they're trying to address.  
 4 BY MR. SWAMINATHAN:  
 5 Q. Okay. And so can you say whether the Special  
 6 Order 83-1 was a good solution to those other problems?  
 7 MS. CARNEY: Objection. Form.  
 8 THE WITNESS: Well, if I don't know if that --  
 9 what other problems are, if any, then I would not  
 10 know if it was a successful way of answering those  
 11 problems, if any.  
 12 Q. Okay. Thank you. Did you -- sorry. Sorry.  
 13 Okay. And so in light of your testimony on these  
 14 points, are you offering an opinion in this case that  
 15 Special Order 83-1 comports with generally accepted  
 16 police practices?  
 17 A. I don't know what generally accepted police  
 18 practices are.  
 19 Q. Are you offering an opinion in this case that  
 20 Special Order 83-1 was consistent with national policing  
 21 standards for documentation and disclosure?  
 22 A. Since I'm not aware of those standards, I  
 23 don't know what it -- if it's addressed or not.  
 24 Q. And are you offering an opinion in this case  
 25 that Special Order 83-1 was an effective solution to all

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1 of the problems that had been identified during the  
 2 course of the George Jones case?  
 3 MS. CARNEY: Objection. Form.  
 4 THE WITNESS: Regarding the George -- no, I'm  
 5 not addressing that at all.  
 6 BY MR. SWAMINATHAN:  
 7 Q. Okay. And ultimately, sir, are you qualified  
 8 to opine about whether Special Order 83-1 is a good  
 9 policy from a police perspective?  
 10 MS. CARNEY: Objection. Form.  
 11 THE WITNESS: I -- I never said from a police  
 12 perspective, no.  
 13 BY MR. SWAMINATHAN:  
 14 Q. Okay. Okay. I think you've previously  
 15 indicated that -- strike that. You're aware of what a  
 16 Chicago Police Department inventory form is, correct?  
 17 MS. CARNEY: Objection. Oh, nevermind. Go  
 18 ahead.  
 19 THE WITNESS: Well, there's -- when a -- a  
 20 when a forensic investigator is on a crime scene or  
 21 maybe a detective and they recover evidence and  
 22 preserve that evidence for either testing by a lab  
 23 or use later on a trial, that is referred to as an  
 24 inventory report.  
 25 BY MR. SWAMINATHAN:

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1 Q. Okay. And are you aware of, sort of, a list  
 2 that's kept in typically in investigative files that  
 3 lists each of the documents that's added to the  
 4 investigative file?  
 5 A. I'm aware of that form as well.  
 6 Q. Okay. And that form is referred to as an  
 7 inventory or investigative file inventory, correct?  
 8 A. You know, I guess it is. I'm not necessarily  
 9 familiar with the title of it.  
 10 Q. Okay. You're not sure what title it has, but  
 11 you are familiar with that document, correct?  
 12 A. I am.  
 13 Q. Okay. And if I refer to that as an inventory  
 14 or investigative file inventory, you know what I'm  
 15 referring to, correct?  
 16 A. As long as you don't wander into evidence  
 17 recovery, yes, I'm okay with this.  
 18 Q. Okay. So putting aside evidence reports,  
 19 crime scene processing reports, those types of things,  
 20 I'm -- when I say for at least for this line of  
 21 questioning, when I'm referring to an inventory report  
 22 or inventory, you understand I'm referring to that list  
 23 of documents contained with the investigative -- within  
 24 the investigative file. You with me?  
 25 A. I -- I understand what you're saying.

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1 Q. Okay. When you were acting as a prosecutor in  
 2 the Cook County State's Attorney's Office, would you get  
 3 copies of the inventory forms from the police  
 4 department?  
 5 A. During the course of subpoenaing materials  
 6 from the police department, yes, we'd receive that form.  
 7 Q. And would you receive -- how often would you -  
 8 - strike that. How often would you receive that form?  
 9 A. You -- you know, I -- I'm -- I'm not sure with  
 10 -- with certainty if we received it on every case. I  
 11 assume we did. It wasn't necessarily a form that I was  
 12 looking for when I received investigative material.  
 13 Q. Would it be fair to say you got it about half  
 14 the time?  
 15 A. It -- probably --  
 16 MS. CARNEY: Objection. Form. You can  
 17 answer.  
 18 THE WITNESS: Probably half the time. Maybe  
 19 -- maybe more. It's just a form that I didn't  
 20 necessarily focus on when I was requesting  
 21 investigative material.  
 22 BY MR. SWAMINATHAN:  
 23 Q. In your trial testimony in the Rivera matter  
 24 on page 3908, you were asked, "In your experience, it  
 25 was typical or atypical that this index would get

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1 produced to you as a prosecutor?" Answer, "I think I  
2 can recall receiving it about half the time, not all the  
3 time." Is that an accurate representation about your  
4 observations and experience as a prosecutor?

5 MS. CARNEY: Objection. Form. If you're -- I  
6 mean, if you're going to ask him to look at  
7 testimony, I would ask that you show it to him, but  
8 if that's the one line you're going to do, then we  
9 can go forward.

10 BY MR. SWAMINATHAN:

11 Q. Yeah. I was just going to show him that one  
12 line, but we can also pull it up. Would you prefer --  
13 how however you prefer, Mr. Murray.

14 A. You don't have to pull it up. It -- it -- it  
15 sounds like an accurate representation of my testimony,  
16 but as I said a second ago, it wasn't necessarily a form  
17 I was looking for. So that's why I'm estimating that I  
18 got it in 50 percent of the cases.

19 Q. Okay. But you -- you're not claiming that you  
20 always got that inventory, correct?

21 A. No, I'm not.

22 Q. And you're acknowledging that there were -- it  
23 was common for you to receive police files and not be  
24 provided with a copy of that inventory, correct?

25 MS. CARNEY: Objection. Form. Misstates his

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1 testimony.

2 THE WITNESS: Well, it would be more common  
3 that I received it.

4 BY MR. SWAMINATHAN:

5 Q. Because you're saying it was definitely more  
6 than 50 percent of the time that you got it?

7 MS. CARNEY: Objection. Form. Misstates his  
8 testimony. You can answer.

9 THE WITNESS: I would say again that I can  
10 definitely recall receiving it at least 50 percent  
11 of the cases. But again, I was not always looking  
12 for it. It was not a form that was significant to  
13 my -- for preparation for discovery or for trial.  
14 That's why I'm saying that there's a -- I recall 50  
15 percent of the time receiving it. I could have  
16 received it more than that.

17 BY MR. SWAMINATHAN:

18 Q. Do you agree that under this -- strike that.  
19 Under the Chicago Police Department policy, you should  
20 have been getting the inventories every time, correct?

21 A. I don't know if I received -- if I'm familiar  
22 with that policy.

23 Q. Do you know whether there were any Chicago  
24 Police Department policies that discussed the inventory  
25 form?

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1 A. I'm not personally familiar with it.

2 Q. Okay. Are you -- do you know whether there  
3 were any Chicago Police Department policies that  
4 discussed the importance of those inventory forms?

5 A. I'm not familiar with that.

6 Q. Have you reviewed any Chicago Police  
7 Department policies that discuss the inventory forms?

8 A. Not to my recollection.

9 Q. Okay. And in any event in the -- strike that.  
10 In the document -- strike that. In the policies that  
11 you've reviewed, you're not relying on any information  
12 about the inventory forms for purposes of forming your  
13 opinions; is that fair?

14 A. Could you say that again?

15 Q. Informing your opinions in this matter, are  
16 you relying on any information about how inventory forms  
17 were supposed to be kept within the police department?

18 A. I'm not.

19 Q. In any of your review of materials and  
20 preparation for your opinion in this case, did you form  
21 any conclusions based on any policies related to  
22 inventories?

23 A. I'm not familiar with the policies, so I don't  
24 have a conclusion regarding them.

25 Q. Sorry, one sec. In the course of your --

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1 well, strike that. You see this document on my screen  
2 now?

3 A. The materials reviewed?

4 Q. Oh, let's see here. I'm showing you the wrong  
5 thing here. All right. All right. I'm showing you a  
6 document I've marked as Exhibit 4. This is Special  
7 Order 83-1. Do you see that at the top?

8 (EXHIBIT 4 MARKED FOR IDENTIFICATION)

9 A. I do.

10 BY MR. SWAMINATHAN:

11 Q. This is a document that you are familiar with,  
12 correct?

13 A. Yes, I am.

14 Q. Okay. And it's a total of a five-page  
15 document. And this is the document that you indicated  
16 that you actually did review before -- during your  
17 report in this matter, correct?

18 A. Yes.

19 Q. Okay. If you look at this document, it  
20 contains a Section 4 with definitions and it identifies  
21 -- excuse me, in section D, Investigative File Inventory  
22 Sheet. Do you see that?

23 A. I do see it.

24 Q. Okay. So the inventory is actually discussed  
25 in the Special Order 83-1, correct?



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1 A. It is.

2 Q. Okay. You hadn't realized that before?

3 A. I -- I might have realized in the past, but I

4 didn't realize it's today when I -- or over the weekend

5 when I reviewed again, this file sheet.

6 Q. Okay. The inventory sheet component of this

7 policy is -- it's just not all that important to you; is

8 that right?

9 MS. CARNEY: Objection. Form. Misstates his

10 testimony.

11 THE WITNESS: It's a -- a -- a form that it

12 was not significant to me from compiling the

13 investigative material and getting it to defense

14 counsel and for my own use at trial. I was -- when

15 I reviewed 83-1, I was most focused on Section 3

16 policy.

17 BY MR. SWAMINATHAN:

18 Q. Okay. In any way, if you received a copy of

19 the inventory -- strike that. In the instances when you

20 received a copy of the inventory sheet from the police

21 department, did you disclose that to the criminal

22 defense attorneys?

23 A. If I received it, I did, yes.

24 Q. Okay. And looking at Section D there on the

25 inventory sheet, it explains that it's a multi-line

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1 eight and a half by 11 sheet of paper with columns to

2 identify each investigative document that is placed in

3 the investigative file case folder. Do you see that?

4 A. I do.

5 Q. Okay. And it's indicates that it -- "This

6 form functions as the case index for all documents

7 within the investigative file case folder," correct?

8 A. That's what it says.

9 Q. Okay. And then it continues, and it says, "A

10 copy of the form will be forwarded to the Records

11 Division whenever felony charges are placed against a

12 person to ensure proper notice of all existing documents

13 pertaining to the subject investigation to be" -- I --

14 maybe I read that wrong. I'll read it again. Section

15 D. This is the top of Page 3. "A copy of the form will

16 be forwarded to the Records Division whenever felony

17 charges are placed against a person to ensure proper

18 notice of all existing documents pertaining to this

19 subject investigation, can be made to the State's

20 Attorney's Office, the courts, and defense C=counsel."

21 Do you see that?

22 A. I do see that.

23 Q. Okay. And so pursuant to CPD's own policies,

24 the inventory sheet had a particular importance,

25 correct?

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1 MS. CARNEY: Objection. Form. Foundation.

2 You can answer.

3 THE WITNESS: In the order, they -- the -- the

4 -- it had a significance for identifying reports

5 that were included in the investigative file.

6 BY MR. SWAMINATHAN:

7 Q. Okay. And the -- in the -- in Chicago's --

8 sorry, strike that. In the CPD policies, the inventory

9 sheet was the mechanism to ensure that the prosecution

10 and the defense knew if they got everything, correct?

11 MS. CARNEY: Objection. Form. Foundation.

12 THE WITNESS: Well, I don't know if it's a --

13 a mechanism. If -- if we're following the overall

14 policy of retaining everything, then -- all

15 investigative material, that would be the way to

16 ensure that the material was retained by the -- by

17 the detective investigating the case. This is a

18 list of what's -- what purports to be in the file.

19 BY MR. SWAMINATHAN:

20 Q. Okay. And what it -- what this policy says is

21 that you should create a list of everything in the file,

22 "To ensure proper notice of all existing documents to

23 the State's Attorney's Office, the courts, and the

24 defense counsel," correct?

25 A. That's what it says, yes.

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1 Q. Okay. In other words, this is a mechanism

2 that is -- strike that. The inventory sheet is supposed

3 to be shared with the prosecutors so that you can

4 confirm whether in fact you got everything in the

5 investigative file, correct?

6 A. Well, that's one way. Yes.

7 Q. That's the way that's written in the policy,

8 correct?

9 A. That's correct.

10 Q. Okay. Now there's -- you're referring to the

11 fact that there's another way for you as a prosecutor to

12 try to do that, correct?

13 A. Yes.

14 Q. And what are you saying is the way to do that?

15 A. I'm -- as I receive all the reports, I'm

16 reading them and making sure that the -- the typical

17 reports from the -- from the Records Division are

18 included. And when I have a Records Division report

19 that has a detailed interview, then I expect to see a

20 GPR related to that so I can read the file in context to

21 realize whether I've received everything.

22 Q. Okay. So for example, you -- if you reviewed

23 the file and you saw a detailed interview, then you'd

24 expect to see a GPR of that interview, correct?

25 A. That's one example. Yes.

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1 Q. And if you didn't see a GPR of that interview,  
2 then you would know that you're probably missing  
3 something you've got to follow-up; is that right?

4 MS. CARNEY: Incomplete hypothetical.

5 THE WITNESS: If a -- if I'm reading a police  
6 report and there's a detailed interview in there, I  
7 would expect that there would be a GPR of some  
8 length that was created at the time of the  
9 interview.

10 BY MR. SWAMINATHAN:

11 Q. And if that -- if you didn't find that in the  
12 police file, what would you do?

13 A. Well, I'd start off by calling the detectives  
14 saying, I think I'm missing a GPR.

15 Q. And is this a hypothetical that you're giving  
16 me or is this something that you would -- a way that you  
17 would address this --

18 A. Both.

19 Q. -- when you were serving as the prosecutor?

20 A. It's both.

21 Q. Okay. And when you say it's both, what do you  
22 mean by that?

23 A. It's a hypothetical, but it's also what I did.

24 Q. Okay. So you're describing in -- what one of  
25 your practices in terms of -- strike that. So let me

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1 ask you this. Was it your practice as you were  
2 reviewing the police files that were coming in to assess  
3 whether or not you were getting all the different types  
4 of documents you typically expect to see?

5 A. Yes. From the investigative file, the RD  
6 file, we're trying to read the -- the reports at the  
7 same time to make sure we've got everything that we  
8 normally would have, not just from the investigative  
9 file, but also, you know, for example, there's always a  
10 case report when a -- when a crime happens. If I don't  
11 have that, then I know I'm missing that report.

12 Q. Okay. And so your practice was to see if you  
13 were getting all the different types of documents you  
14 typically expect, for example, GPRs. Well, let me break  
15 it down. Sorry. I'm asking you a poor question. One of  
16 your practices was to see if you were getting all the  
17 different types of documents you'd expect to see in a  
18 police file; is that correct?

19 A. Yes.

20 Q. Okay. And one of the types of document --  
21 strike that. Were GPRs or handwritten notes a type of  
22 document you'd expect to see in the files?

23 MS. CARNEY: Objection. Form. Incomplete  
24 hypothetical. You can answer.

25 THE WITNESS: Well, again, depending upon the

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1 investigation, if the -- for the example you used  
2 earlier, if there was a detailed interview, I'd  
3 expect there'd be some sort of a GPR.

4 BY MR. SWAMINATHAN:

5 Q. Okay. But if there were -- you'd expect to  
6 see some supplementary reports in the police file,  
7 correct?

8 MS. GOLDEN: Object to foundation. Form.

9 THE WITNESS: Supplemental reports would be in  
10 the -- in the RD file as opposed to the  
11 investigative file, right?

12 BY MR. SWAMINATHAN:

13 Q. They would also be in the investigative file,  
14 right?

15 A. It could be.

16 Q. Or not? Go ahead.

17 A. Yes, they could be.

18 Q. Okay. And when you looked at the  
19 investigative file, would you expect to see there to be  
20 some general progress reports or other handwritten  
21 notes?

22 A. Well, depending upon the course of the  
23 investigation, the example we used earlier, a detailed  
24 interview in a police report. If it wasn't video  
25 recorded or court reported or handwritten at the time,

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1 yeah, I would expect there to be some sort of a GPR of  
2 whatever length associated with that.

3 Q. Okay. So the practice in your office was to  
4 be paying attention to whether you were getting the  
5 types of materials you typically expected so that you  
6 could follow up if needed; is that right?

7 A. Yes. We read the entire file to determine  
8 that.

9 Q. And in other words, in addition to seeing if  
10 you're getting all the types of documents you'd expect  
11 to see, you were also assessing whether there was  
12 specific information in the files that suggested to you  
13 that there may be something else you hadn't received; is  
14 that right?

15 A. Yes.

16 Q. In other words, you may have some GPRs, but if  
17 you notice that you have a detailed interview for which  
18 you don't have a GPR, you'd do a follow-up?

19 MS. GOLDEN: Object to foundation.

20 MS. CARNEY: And incomplete hypothetical. You  
21 can answer.

22 THE WITNESS: It -- it would depend upon the  
23 -- the scenario of how that detailed interview was  
24 initially recorded. But as I said previously, that  
25 -- that would cause -- would make me ask, are there

<p style="text-align: right;">Page 130</p> <p>1 GPRs that I'm missing?</p> <p>2 BY MR. SWAMINATHAN:</p> <p>3 Q. Okay. And in those instances, what was your</p> <p>4 practice?</p> <p>5 A. As I said earlier, I would probably start off</p> <p>6 with calling the -- the police officer, the detective on</p> <p>7 the case. But that doesn't preclude that, you know,</p> <p>8 investigative materials and the RD files and all sorts</p> <p>9 of police reports do not land on my desk on the same</p> <p>10 day. So it might just be a timing thing where I</p> <p>11 received something on one day and -- and then I'm still</p> <p>12 waiting for the GPRs or some other report on another</p> <p>13 day.</p> <p>14 Q. And so was it common for you get a copy of a</p> <p>15 investigative file where you had to follow-up to get</p> <p>16 access to the GPRs?</p> <p>17 MS. CARNEY: Objection. Form. Incomplete</p> <p>18 hypothetical.</p> <p>19 BY MR. SWAMINATHAN:</p> <p>20 Q. Let's strike that. I'll ask a better</p> <p>21 question. I'm sorry. When you received a copy of the</p> <p>22 investigative file, you weren't given the investigative</p> <p>23 file in drips and drabs, you were given the entire</p> <p>24 investigative file, right?</p> <p>25 MS. CARNEY: Objection.</p>	<p style="text-align: right;">Page 132</p> <p>1 A. Yes.</p> <p>2 Q. Okay. And when you requested the</p> <p>3 investigative file, would you request a portion or</p> <p>4 pieces of the investigative file, or would you request</p> <p>5 the entire investigative file?</p> <p>6 A. To be accurate, the -- the subpoenas that were</p> <p>7 often sent out wouldn't -- wouldn't necessarily say</p> <p>8 investigative file. They would say GPRs, for example,</p> <p>9 or what's called Street Files, or what's called RD</p> <p>10 files. So it would be -- I don't know if we'd use that</p> <p>11 label that you used, but we would ask for any and all</p> <p>12 investigative and other materials.</p> <p>13 Q. And when you submitted those requests, was it</p> <p>14 your expectation that you would get the entire</p> <p>15 investigative file or pieces of it?</p> <p>16 A. Well, we're always hoping to get the entire</p> <p>17 reports that we're requesting, but sometimes we didn't</p> <p>18 get all the RD reports at the same time. Sometimes we</p> <p>19 didn't get the case report at the same time, and</p> <p>20 sometimes we didn't receive all of the GPRs at the same</p> <p>21 time for whatever reason.</p> <p>22 Q. Okay. And so some -- and so when you made the</p> <p>23 request, though, your expectation was that they were</p> <p>24 going to be giving you everything in their file that</p> <p>25 they had at the time? That they weren't going to be</p>
<p style="text-align: right;">Page 131</p> <p>1 MS. GOLDEN: Form.</p> <p>2 THE WITNESS: Could you rephrase that?</p> <p>3 BY MR. SWAMINATHAN:</p> <p>4 Q. Yeah. And I'm sorry, I'm asking you poor</p> <p>5 questions. I understand that you're indicating that,</p> <p>6 you know, sometimes your requests for documents related</p> <p>7 to the police investigation may involve you getting</p> <p>8 documents from different places within the police</p> <p>9 department. That's fair?</p> <p>10 A. Yes.</p> <p>11 Q. Okay. And in fact, you said you were trained</p> <p>12 on, you know, knowing what forms to submit and where to</p> <p>13 go to get information from within the police department,</p> <p>14 correct?</p> <p>15 A. Yes.</p> <p>16 Q. And that's because the Chicago Police</p> <p>17 Department kept documents related to police</p> <p>18 investigations in different repositories, correct?</p> <p>19 MS. CARNEY: Objection. Form. Foundation.</p> <p>20 THE WITNESS: Yes.</p> <p>21 BY MR. SWAMINATHAN:</p> <p>22 Q. Okay. And -- but once you were -- strike</p> <p>23 that. So one of the repositories of information that</p> <p>24 you would request in your cases as a matter of practice</p> <p>25 was the investigative file, correct?</p>	<p style="text-align: right;">Page 133</p> <p>1 picking and choosing within the police department; is</p> <p>2 that right?</p> <p>3 A. Our subpoenas and our other forms are requests</p> <p>4 for any and all documents.</p> <p>5 Q. Okay. And so when you made a request to the</p> <p>6 Records Division for the RD file, you were -- your</p> <p>7 expectation was that they were going to give you-all of</p> <p>8 the documents in the RD file, correct?</p> <p>9 A. Any and all.</p> <p>10 Q. And when you made a request to the -- for the</p> <p>11 investigative file from the police department, your</p> <p>12 expectation was they were going to give you the entire</p> <p>13 investigative file, correct?</p> <p>14 A. Any and all documents.</p> <p>15 Q. Okay. And so when you'd received the</p> <p>16 investigative files, if you found that there were --</p> <p>17 strike that. When you received investigative files,</p> <p>18 what you've indicated is that there'd be occasions when</p> <p>19 you'd find that you didn't have all of the GPRs,</p> <p>20 correct?</p> <p>21 A. That -- yes, there could be.</p> <p>22 Q. Okay. And in those instances, you would reach</p> <p>23 out first to the detective to get those copies, correct?</p> <p>24 A. If -- if I couldn't -- if it was not an</p> <p>25 obvious timing issue, you know, the -- the GPRs could be</p>



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1 submitted with the -- a draft copy of the final closing  
2 supplemental report. So maybe those GPRs and that final  
3 supplemental report wasn't ready because the sergeant  
4 hadn't reviewed them yet. So if it was not a timing  
5 issue like that -- if it was a timing issue, I'd  
6 probably just subpoena them again. But if it was not a  
7 timing issue where I thought all the materials had been  
8 compiled, I would first then go to the detective and  
9 say, what am I missing?

10 Q. Okay. And that would happen from time to  
11 time, right? Where you'd have to follow up with the  
12 detective because some documents from the investigative  
13 file didn't get to you?

14 MS. CARNEY: Hold on. He wasn't done  
15 answering.

16 MR. SWAMINATHAN: Oh.

17 THE WITNESS: Yeah. My last thing I said was,  
18 if any materials were actually missing. Like I  
19 said before, the -- the -- the -- the manner in  
20 which a -- the example we've been using is a  
21 detailed interview. If it was recorded, a court  
22 reported statement, or nowadays a video statement  
23 or even back then a handwritten statement, that  
24 maybe the GPRs either wouldn't exist or wouldn't be  
25 as detailed if it was recorded in a different

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1 manner. So that's what I mean by if anything was  
2 missing, but it would give me reason to call and  
3 ask.

4 BY MR. SWAMINATHAN:

5 Q. And you -- you've testified I know in an --  
6 the -- previously in Rivera and Fields, you acknowledged  
7 that there were times when you would get an  
8 investigative file from the police department and it  
9 would turn out that there were some additional documents  
10 that hadn't been provided to you yet, right? That you  
11 had to follow-up and get?

12 A. Yes.

13 Q. And you acknowledged that there were times  
14 when, you know, there were GPRs that you'd call and say,  
15 "Hey, I didn't -- I don't see these." And then they  
16 would turn up when you made the call, correct?

17 MS. GOLDEN: Object to form.

18 THE WITNESS: And it -- it -- it -- and it  
19 could be for many reasons. Again, timing or,  
20 again, as I mentioned a second ago, the -- the  
21 sergeant hadn't signed off on the closing supp, so  
22 the GPR hadn't been submitted into the  
23 investigative file yet. But the point is that I  
24 would reach out and see if I was missing anything.

25 BY MR. SWAMINATHAN:

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1 Q. Okay. And -- okay. And so there were  
2 multiple reasons that you were often given for why --  
3 strike that. In the instance -- strike that. In -- let  
4 me start over. When you didn't get GPRs that you were  
5 expecting as part of the investigative files that had  
6 been provided to you, there were multiple explanations  
7 for why that would happen; is that fair?

8 A. If -- if in fact that there was a GPR -- and  
9 no, again, a GPR might not have been ever created. But  
10 if -- if I believe that there should be a -- a GPR, I  
11 would ask. And yes, then there would be multiple  
12 reasons why maybe it wasn't originally submitted.

13 Q. Okay. And can you say, sitting here today,  
14 how often that happened that you -- that a GPR just  
15 hadn't been submitted to you, and when you followed up,  
16 they provided it?

17 MS. GOLDEN: Object to foundation.

18 THE WITNESS: I -- I -- I can't say how often  
19 as -- as I said numerous times today, when -- when  
20 -- my issue with police reports and -- and GPRs  
21 usually revolved around the timing of when I needed  
22 to tender them in court and when they finally came  
23 to me from the police department.

24 BY MR. SWAMINATHAN:

25 Q. And so in terms of how often it was that you

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1 followed up about a GPR and then were -- after you  
2 followed up, they provided you with a copy of a GPR  
3 based on your follow-up, can -- you can't say how often  
4 that is that that happened; is that right?

5 A. I can't.

6 MS. GOLDEN: Form.

7 MR. SWAMINATHAN: Go ahead.

8 MS. GOLDEN: Go ahead.

9 MR. SWAMINATHAN: Did you get the answer,  
10 Madam Court Reporter?

11 THE WITNESS: I cannot say.

12 BY MR. SWAMINATHAN:

13 Q. Okay. Sorry. All right. Let me ask you  
14 about -- and by the way, when the detectives would send  
15 you their GPRs, as a prosecutor, do you have the ability  
16 to say whether the GPRs that were submitted to you or  
17 all of the GPRs on a case?

18 MS. CARNEY: Objection. Form.

19 THE WITNESS: I -- I don't understand the  
20 question.

21 BY MR. SWAMINATHAN:

22 Q. Yeah. As a prosecutor, can you say once  
23 you've received some number of GPRs that, in fact, there  
24 are no other GPRs that exist for that case?

25 MS. GOLDEN: Same objection.

<p style="text-align: right;">Page 138</p> <p>1 THE WITNESS: Only from the context of my</p> <p>2 reviewing of the file.</p> <p>3 BY MR. SWAMINATHAN:</p> <p>4 Q. In other words, you may be able to -- if there</p> <p>5 was a GPR that was created that's missing from the</p> <p>6 investigative file you received, you may be able to</p> <p>7 catch it in some instances, correct?</p> <p>8 MS. CARNEY: Objection. Form. Incomplete</p> <p>9 hypothetical. You can answer.</p> <p>10 THE WITNESS: Yeah. If I believed one was</p> <p>11 missing, I would reach out and try to find out if</p> <p>12 one was actually missing.</p> <p>13 BY MR. SWAMINATHAN:</p> <p>14 Q. But you wouldn't always be able to catch it if</p> <p>15 there were GPRs that were missing, correct?</p> <p>16 MS. GOLDEN: Form.</p> <p>17 THE WITNESS: Well, I -- I can only estimate</p> <p>18 from my examination of the total file.</p> <p>19 BY MR. SWAMINATHAN:</p> <p>20 Q. So, for example, if you had GPRs documenting</p> <p>21 interviews, but those interviews weren't documented in</p> <p>22 the supplementary reports, you'd have no idea that there</p> <p>23 were GPRs related to that interview, correct?</p> <p>24 A. Well, two things. Usually if there was a -- a</p> <p>25 -- some significant interview, I think that would be</p>	<p style="text-align: right;">Page 140</p> <p>1 testimony. You can answer.</p> <p>2 THE WITNESS: You -- you could have a</p> <p>3 reference to we interviewed in a -- in a -- in a --</p> <p>4 in a -- in an RD a supplementary report, we</p> <p>5 interviewed these three people, they knew nothing.</p> <p>6 And that would make me say, "well, what did they</p> <p>7 say? Is" - "is our GPR related to that?" And the</p> <p>8 officer might say, "no, that was it." We didn't --</p> <p>9 we didn't have a GPR because they -- they knew</p> <p>10 nothing. So that's an example of me trying to</p> <p>11 discern whether a GPR existed on -- on a witness.</p> <p>12 Also, the -- the -- the canvas report would be</p> <p>13 another report where it could be a brief mention.</p> <p>14 We conducted a canvas and knocked on ten doors and</p> <p>15 here are the ten people and no one knew nothing.</p> <p>16 There may not be a GPR report related to that. But</p> <p>17 nevertheless, it would cause me to ask, "was a GPR</p> <p>18 created?"</p> <p>19 BY MR. SWAMINATHAN:</p> <p>20 Q. Yeah. And your expect -- in other words, part</p> <p>21 of what you're identifying is your expectation was that</p> <p>22 if the police officers were interviewing witnesses as</p> <p>23 part of their investigation, they were creating some</p> <p>24 documentation of the fact that they conducted those</p> <p>25 interviews, correct?</p>
<p style="text-align: right;">Page 139</p> <p>1 documented in -- in, even briefly, in a supplemental</p> <p>2 report. But if an interview with someone was made part</p> <p>3 of a GPR and it was not referenced and I couldn't</p> <p>4 discern that it must have happened where is -- where is</p> <p>5 the GPR or where is the -- the RD report, then I would</p> <p>6 not know in that scenario.</p> <p>7 Q. Okay. Okay. And so you're not claiming that,</p> <p>8 as a prosecutor, you can always tell whether you've</p> <p>9 received all of the GPRs?</p> <p>10 A. I think I can tell from, again, reviewing the</p> <p>11 entire -- reading the GPRs and the RD files in tandem, I</p> <p>12 can get a good handle on that I've got everything. I'm</p> <p>13 not claiming in the -- the scenario -- the hypothetical</p> <p>14 you -- hypothetical you created, which seems very</p> <p>15 speculative to me. In that scenario, I would not know.</p> <p>16 But I think from reading the RD and the investigative</p> <p>17 files and in -- you know, in conjunction with my review</p> <p>18 of all the materials, I'd have a safe predictor of that</p> <p>19 I -- whether -- whether I had all the GPRs that were</p> <p>20 probably created.</p> <p>21 Q. And that's because your assumption is that if</p> <p>22 there were interviews that were taking place, they were</p> <p>23 always being documented in a supplementary report,</p> <p>24 right?</p> <p>25 MS. CARNEY: Objection. Form. Misstates his</p>	<p style="text-align: right;">Page 141</p> <p>1 A. Yes.</p> <p>2 Q. And your assumption is that if they conducted</p> <p>3 interviews with individuals as part of the</p> <p>4 investigation, you'd see evidence of that in their</p> <p>5 supplementary reports, even if it's just a brief note</p> <p>6 about interviewing somebody, correct?</p> <p>7 A. I -- I would say that the majority of the</p> <p>8 time, there would be some reference in the supplementary</p> <p>9 report. But there -- there may be -- there may be an</p> <p>10 interview of someone who they thought was a pertinent</p> <p>11 witness, but knew nothing. That might be in a GPR and</p> <p>12 not in a supplementary report. So it'd be the converse</p> <p>13 of what you're asking. There might be a -- a one</p> <p>14 paragraph or maybe a -- like, a document they received</p> <p>15 where they thought they might have a lead and then they</p> <p>16 quickly realized that it was insignificant, and then</p> <p>17 maybe did not mention it in the RD, the typed report.</p> <p>18 Q. Okay. And if they didn't mention it in the</p> <p>19 typed RD report, you wouldn't know if they created a GPR</p> <p>20 of that report, correct? Related to that interview,</p> <p>21 correct?</p> <p>22 MS. CARNEY: Objection. Form. Misstates his</p> <p>23 testimony.</p> <p>24 THE WITNESS: Well, I -- I -- I -- I'm -- I</p> <p>25 think even one of the cases we have here, there's a</p>

<p style="text-align: right;">Page 142</p> <p>1 -- a lease and a name of somebody that was -- and -</p> <p>2 - and a GPR report, and -- and it was quickly</p> <p>3 dropped because the actual perpetrator confessed.</p> <p>4 So that case, there was evidence in the GPRs of --</p> <p>5 of that information, but certainly not detailed in</p> <p>6 the supplemental report.</p> <p>7 BY MR. SWAMINATHAN:</p> <p>8 Q. Okay. So ultimately, is it your opinion that</p> <p>9 if the police department failed to give you-all the</p> <p>10 documents related to an investigation, you'd always be</p> <p>11 able to catch that?</p> <p>12 A. I -- I think with the -- the -- reading the RD</p> <p>13 and the supplement and the investigative file in tandem,</p> <p>14 I -- I think I can discern whether I've received all the</p> <p>15 reports or certainly lead me to ask, have I received all</p> <p>16 the reports? And --</p> <p>17 Q. Okay. And even investigative steps --</p> <p>18 MS. CARNEY: Hold on. Hold on. Hold on. Hold</p> <p>19 on. He was still talking.</p> <p>20 THE WITNESS: And -- and as I've said, the --</p> <p>21 it -- it is possible that we -- even though I think</p> <p>22 a GPR should have been created, and when I reach</p> <p>23 out to the -- the police officer, the detective,</p> <p>24 he'll say, "no, we didn't do a GPR on that" because</p> <p>25 of whatever reason. Now, if -- if -- if -- if your</p>	<p style="text-align: right;">Page 144</p> <p>1 material, the lease, or the whatever, or the note</p> <p>2 they took, whatever it might be.</p> <p>3 BY MR. SWAMINATHAN:</p> <p>4 Q. Okay. And if they pursued a lead that proved</p> <p>5 to ultimately be a dead end, in that instance, you</p> <p>6 acknowledged they may not decide to write any</p> <p>7 supplementary reports about that dead end, correct?</p> <p>8 MS. GOLDEN: Object to form and foundation.</p> <p>9 MS. CARNEY: And incomplete hypothetical.</p> <p>10 THE WITNESS: Well -- well, I think the point</p> <p>11 is that they're making investigative GPRs regarding</p> <p>12 that, what ultimately is a dead lead, there's a GPR</p> <p>13 that refers to that.</p> <p>14 BY MR. SWAMINATHAN:</p> <p>15 Q. Okay. And if it isn't -- and you're</p> <p>16 acknowledging in that scenario, it may not be documented</p> <p>17 in any supplementary report, but there should be a GPR</p> <p>18 for it, correct?</p> <p>19 A. Yeah. And -- and in that situation, you know,</p> <p>20 as I've said a few times, we read the investigative</p> <p>21 file, the GPRs, and any material collected there, with</p> <p>22 the same level of -- of significance placed on it as the</p> <p>23 final typed up supplementary reports.</p> <p>24 Q. And if you had an instance where they pursued</p> <p>25 a dead end and they didn't write up typed reports about</p>
<p style="text-align: right;">Page 143</p> <p>1 hypothetical is an interview was conducted or notes</p> <p>2 were made on a GPR and they were wholly irrelevant</p> <p>3 to the case and they were not recorded, then, in</p> <p>4 the RD or -- and then that sub -- that note was not</p> <p>5 included in the investigative file, then I would've</p> <p>6 no way of knowing about that.</p> <p>7 BY MR. SWAMINATHAN:</p> <p>8 Q. And maybe just a related question is, when you</p> <p>9 are reviewing the file, if the police -- if the --</p> <p>10 strike that. If the police detectives on the case don't</p> <p>11 create a supplementary report for investigative steps</p> <p>12 that they took during the course of the investigation,</p> <p>13 you have no way of knowing if there were GPRs for that</p> <p>14 work, correct?</p> <p>15 MS. GOLDEN: Object to foundation.</p> <p>16 MS. CARNEY: Incomplete hypothetical. You can</p> <p>17 answer.</p> <p>18 THE WITNESS: Well, if I -- if I've received</p> <p>19 the investigative file and there's a GPR in there</p> <p>20 and it's not referenced in the -- in a</p> <p>21 supplementary report, the reason probably was that</p> <p>22 it was a -- a dead end or a lead that they realized</p> <p>23 quickly was a dead end. And that's why there was</p> <p>24 no supplemental report on that. But obviously,</p> <p>25 they would've preserved the -- the investigative</p>	<p style="text-align: right;">Page 145</p> <p>1 it, unless you received the GPR, you would have no way</p> <p>2 to know whether there were GPRs about that angle; is</p> <p>3 that fair?</p> <p>4 MS. GOLDEN: Object to form and foundation.</p> <p>5 THE WITNESS: Well, I'd have to add on to your</p> <p>6 hypothetical whether there was any other</p> <p>7 indications in the supplementary reports that the -</p> <p>8 - that that was followed up on in some form,</p> <p>9 whether they listed it as a dead end or not. If --</p> <p>10 but if -- if it's completely -- if it's -- I said</p> <p>11 this earlier, if it's a -- if they took notes of an</p> <p>12 interview with somebody and they realized</p> <p>13 immediately it was a dead end and there's</p> <p>14 absolutely no reference to it in the -- in the</p> <p>15 supplementary reports and they did not put that GPR</p> <p>16 in the investigative file, there's no way I would</p> <p>17 know of it.</p> <p>18 BY MR. SWAMINATHAN:</p> <p>19 Q. Okay. If detectives conducted interviews and</p> <p>20 investigation that they never documented at all, you</p> <p>21 wouldn't have any way of catching that either, correct?</p> <p>22 MS. GOLDEN: Object to --</p> <p>23 MS. CARNEY: Form. Foundation. Incomplete</p> <p>24 hypothetical.</p> <p>25 THE WITNESS: Well, I -- I think I answered a</p>

<p style="text-align: right;">Page 146</p> <p>1 few questions ago, but I'll -- I'll -- I'll -- I'll</p> <p>2 -- I'll say what I'm trying to convey to you, that</p> <p>3 if -- if detectives are conducting an investigation</p> <p>4 on an open case and they're pursuing a -- a -- a</p> <p>5 part of an investigation that leads nowhere, and</p> <p>6 pretty quickly it leads nowhere, but they don't</p> <p>7 submit that GPR into the file and it's not</p> <p>8 referenced in any other way in their or other typed</p> <p>9 supplementary reports, I would not know about it.</p> <p>10 BY MR. SWAMINATHAN:</p> <p>11 Q. Okay. That ultimately -- well, strike that.</p> <p>12 If the detectives pursued investigative -- well, strike</p> <p>13 that. Strike that. Ultimately the process required</p> <p>14 prosecutors to trust the Chicago Police detectives to be</p> <p>15 documenting everything into their investigative file or</p> <p>16 typed reports, correct?</p> <p>17 MS. CARNEY: Objection. Form. Foundation.</p> <p>18 Incomplete hypothetical.</p> <p>19 THE WITNESS: I -- I -- I think the special</p> <p>20 order says, "Relevant information obtained by any</p> <p>21 detective during the course of their</p> <p>22 investigation." But with that caveat, I think that</p> <p>23 we are relying upon them to collect and preserve</p> <p>24 relevant investigative material.</p> <p>25 BY MR. SWAMINATHAN:</p>	<p style="text-align: right;">Page 148</p> <p>1 in doing that for you, correct?</p> <p>2 MS. GOLDEN: Object to form and foundation.</p> <p>3 THE WITNESS: Well, again, I've -- I've gone</p> <p>4 through how I've read all the reports and tried to</p> <p>5 determine that -- from my knowledge that I've</p> <p>6 received everything. And then if I think something</p> <p>7 missing, I will try to find if something's missing.</p> <p>8 So to the level that I depend upon them to produce</p> <p>9 what they've collected during the course of the</p> <p>10 investigation, the relevant information in the</p> <p>11 investigative file and the typed reports, yeah, I'm</p> <p>12 trusting them to provide that material to me.</p> <p>13 BY MR. SWAMINATHAN:</p> <p>14 Q. Does Cook County State's Attorney's office,</p> <p>15 did it conduct any audits of Chicago Police Department</p> <p>16 files to ensure that it was getting everything?</p> <p>17 MS. CARNEY: Objection. Form.</p> <p>18 MS. GOLDEN: Foundation.</p> <p>19 THE WITNESS: I'm not sure I understand what</p> <p>20 you mean by audit.</p> <p>21 BY MR. SWAMINATHAN:</p> <p>22 Q. Yeah. Did the Cook County State's Attorney's</p> <p>23 Office ever review specific files from the Chicago</p> <p>24 Police Department and say, all right, we're auditing to</p> <p>25 make sure that when we make subpoena requests or</p>
<p style="text-align: right;">Page 147</p> <p>1 Q. Okay. And the process requires prosecutors to</p> <p>2 trust the Chicago Police detectives to disclose to them</p> <p>3 all of that relevant and pertinent information, correct?</p> <p>4 MS. GOLDEN: Object to form.</p> <p>5 THE WITNESS: We --</p> <p>6 MR. SWAMINATHAN: Carrie, I -- let me -- let</p> <p>7 me strike that question and re-ask it. I think</p> <p>8 Carrie's right. That was a poorly formed question.</p> <p>9 BY MR. SWAMINATHAN:</p> <p>10 Q. Ultimately, the process required prosecutors</p> <p>11 to trust Chicago Police detectives to be disclosing</p> <p>12 everything to them, correct?</p> <p>13 MS. GOLDEN: Object to form.</p> <p>14 THE WITNESS: We -- maybe the best way to word</p> <p>15 it is we trust but verify. We issue the subpoenas</p> <p>16 and we trust that we'll receive everything. But</p> <p>17 for whatever reason where we can tell we're not</p> <p>18 receiving everything, whether are timing issues,</p> <p>19 whether -- whatever it is, you know, that's when we</p> <p>20 verify.</p> <p>21 BY MR. SWAMINATHAN:</p> <p>22 Q. Okay. And -- but ultimately, even that</p> <p>23 verification process, you can't guarantee that the</p> <p>24 Chicago Police Department has given you everything. You</p> <p>25 have to have some faith that they're following through</p>	<p style="text-align: right;">Page 149</p> <p>1 informal requests, you actually provide us with all of</p> <p>2 the police files?</p> <p>3 MS. CARNEY: Objection. Foundation.</p> <p>4 THE WITNESS: I -- I'm not aware of -- that</p> <p>5 sounds like some sort of formal audit. I think</p> <p>6 I've already described how an individual prosecutor</p> <p>7 might say, "I don't think I've got everything.</p> <p>8 Please give me what I need."</p> <p>9 BY MR. SWAMINATHAN:</p> <p>10 Q. So are you aware of any formal audits in which</p> <p>11 the CC -- with the Cook -- in which the Cook County</p> <p>12 State's Attorney's Office audited the Chicago Police</p> <p>13 Department's files, investigative files, to ensure that</p> <p>14 they were getting everything?</p> <p>15 A. No.</p> <p>16 MS. CARNEY: Objection. Form. Foundation.</p> <p>17 Asked and answered. You can answer.</p> <p>18 THE WITNESS: Not that I'm aware of.</p> <p>19 BY MR. SWAMINATHAN:</p> <p>20 Q. Did anyone in the state's attorney's office</p> <p>21 ever go in and review homicide investigations to make</p> <p>22 sure the investigations were being thoroughly documented</p> <p>23 and disclosed?</p> <p>24 MS. CARNEY: Objection.</p> <p>25 MS. GOLDEN: Object to foundation.</p>



<p style="text-align: right;">Page 150</p> <p>1 THE WITNESS: Well, no, I'm not aware of that.</p> <p>2 BY MR. SWAMINATHAN:</p> <p>3 Q. Did anyone from the State's Attorney's Office</p> <p>4 ever go in and review Chicago Police Department files to</p> <p>5 make sure documents were being pulled from all of the</p> <p>6 necessary repositories related to that case?</p> <p>7 MS. CARNEY: Objection. Form. Foundation.</p> <p>8 THE WITNESS: Is that a -- are you saying on a</p> <p>9 case-by-case basis?</p> <p>10 BY MR. SWAMINATHAN:</p> <p>11 Q. No, I'm saying as a matter -- strike that. Was</p> <p>12 there any formal audit or monitoring done to ensure that</p> <p>13 CPD files were being pulled from all of the necessary</p> <p>14 repositories within the police department for a given</p> <p>15 case?</p> <p>16 MS. CARNEY: Objection. Foundation.</p> <p>17 THE WITNESS: It was not an office-wide audit</p> <p>18 that I'm aware of. As I've said before, each</p> <p>19 prosecutor would look at what he's received and</p> <p>20 where he should have received it from. If they</p> <p>21 didn't get the rap sheet, they knew the Bureau of</p> <p>22 Identification didn't provide it, so they would</p> <p>23 make phone calls and reach out to them on why they</p> <p>24 didn't get it. So not a formal office audit, but</p> <p>25 each prosecutor would audit his own files.</p>	<p style="text-align: right;">Page 152</p> <p>1 MS. CARNEY: Object --</p> <p>2 MS. GOLDEN: Object to foundation.</p> <p>3 THE WITNESS: Well, I -- I'm not quite sure I</p> <p>4 understand. The -- did -- did the Cook County</p> <p>5 State Attorney's office ever train the Chicago</p> <p>6 Police Department on how they should gather up the</p> <p>7 -- the discovery materials? No, we did not do that</p> <p>8 type of training.</p> <p>9 MR. SWAMINATHAN: Okay.</p> <p>10 MS. GOLDEN: So, Anand, when you're at a good</p> <p>11 spot, I could use a break.</p> <p>12 MR. SWAMINATHAN: Yep, let's do it right now.</p> <p>13 MS. GOLDEN: Okay.</p> <p>14 THE REPORTER: Okay.</p> <p>15 MR. SWAMINATHAN: Should we -- why don't we --</p> <p>16 can we do a lunch? It's 1:20, so I -- I'm trying -</p> <p>17 - I want to try to be done before he has to go at</p> <p>18 5:00 p.m., and so we're not bringing him back. I</p> <p>19 think we've got a good chance of doing that, you</p> <p>20 know? Don't hold me to it, but I'm -- but I think</p> <p>21 we're on -- in good shape. But -- and I think we</p> <p>22 can do that, even if we take a break until 2:00 for</p> <p>23 lunch. So -- but we are going to go long enough</p> <p>24 that we can't -- I don't think we can just power</p> <p>25 through without saying to the witness we should</p>
<p style="text-align: right;">Page 151</p> <p>1 BY MR. SWAMINATHAN:</p> <p>2 Q. Other than individual prosecutors trying to</p> <p>3 check and see if they think they got everything from the</p> <p>4 police department, was there anything else that was done</p> <p>5 within the prosecutor's office to ensure that they were</p> <p>6 getting everything from the Chicago Police Department?</p> <p>7 A. And you -- again, you're -- you're referring</p> <p>8 to, like, an office-wide audit?</p> <p>9 Q. Any office-wide audit or review or spot check,</p> <p>10 any of those things?</p> <p>11 A. Well, the prosecutors would self-audit their</p> <p>12 files. That's why I was asking, do you mean office-</p> <p>13 wide or -- or not?</p> <p>14 Q. That's what I said. Any office-wide audit.</p> <p>15 A. No.</p> <p>16 Q. Or spot check or monitoring.</p> <p>17 MS. GOLDEN: Objection to form.</p> <p>18 THE WITNESS: Not that I'm aware of.</p> <p>19 BY MR. SWAMINATHAN:</p> <p>20 Q. Okay. And did the state attorney's office</p> <p>21 ever conduct any trainings for the Chicago Police</p> <p>22 Department about what specific processes or expectations</p> <p>23 they had about how Chicago Police Department was pulling</p> <p>24 files in response to its subpoena request and informal</p> <p>25 request?</p>	<p style="text-align: right;">Page 153</p> <p>1 take a lunch break.</p> <p>2 MS. GOLDEN: Yeah, that's fine. Do you want</p> <p>3 to go off the record?</p> <p>4 MR. SWAMINATHAN: Yeah, let's go off the</p> <p>5 record. Thank you.</p> <p>6 THE REPORTER: Okay. Going off the record.</p> <p>7 The time is 1:21 p.m.</p> <p>8 (OFF THE RECORD)</p> <p>9 THE REPORTER: We're back on the record. The</p> <p>10 time is 2:05 p.m.</p> <p>11 MR. SWAMINATHAN: Sorry.</p> <p>12 BY MR. SWAMINATHAN:</p> <p>13 Q. All right. Good afternoon, Mr. Murray. Did</p> <p>14 you get a chance to get some lunch?</p> <p>15 A. I did.</p> <p>16 Q. And are you prepared to keep going forward</p> <p>17 here today?</p> <p>18 A. I am.</p> <p>19 Q. Okay. You did not review any of the</p> <p>20 depositions of the numerous witnesses in this case,</p> <p>21 correct?</p> <p>22 MS. CARNEY: Objection. Form. You can</p> <p>23 answer.</p> <p>24 THE WITNESS: The deposition of the expert,</p> <p>25 that was it.</p>



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1 BY MR. SWAMINATHAN:

2 Q. Did you review any depositions of any of the  
3 witnesses to the -- involved in the Soto homicide  
4 investigation?

5 A. I did not.

6 Q. Did you review the depositions of Mr. Reyes or  
7 Mr. Solache or anyone else who was a subject of the  
8 investigation?

9 A. I did not.

10 Q. Okay. You say you reviewed Mr. Tiderington's  
11 expert report, correct?

12 A. Yes.

13 Q. And you saw his materials reviewed, correct?

14 A. Yes.

15 Q. And Mr. Tiderington, you agree, did review  
16 numerous depositions related to the underlying Soto  
17 homicide investigation, correct?

18 A. Yes.

19 Q. One of the things he identified in his report  
20 is that the depositions revealed various investigative  
21 steps that were taken, but were not documented anywhere  
22 in the investigative file?

23 MS. CARNEY: Objection. Form. Foundation.

24 You can answer.

25 THE WITNESS: Referring to the Solache-Reyes

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1 case?

2 BY MR. SWAMINATHAN:

3 Q. Yes.

4 A. Yes.

5 Q. Okay.

6 A. You said that.

7 Q. I'm sorry. Go ahead.

8 A. You said that.

9 Q. Yeah. And including interviews that were done  
10 as part of the Soto investigation that were not  
11 documented in any supplementary reports or GPRs,  
12 correct?

13 A. I don't know if I focused on that. That was  
14 not my concern. But if it's in his report, then it's  
15 true.

16 Q. Okay. And you're not offering any opinions  
17 about those issues, correct?

18 A. I'm not.

19 Q. Okay. With regard to the individual Soto  
20 homicide investigation that you focused on just those  
21 four Polaroid photos, correct?

22 A. Yeah. The collection of photograph Polaroids,  
23 yes.

24 Q. Okay. And you understood that there were four  
25 Polaroid photos that Mr. Tiderington focused on as being

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1 related to the Brady evidence and Brady obligations,  
2 correct?

3 A. Those four people, but maybe five photographs.  
4 Does that sound right?

5 Q. Okay. That sounds about right. And  
6 basically, we're talking about Felicia Soto, Rosa  
7 Aronda, Jorge Mejia, and Guadalupe Mejia, correct?

8 A. I'm just it up now. I am sorry, what -- so  
9 what did you say? I -- I -- I -- I have my report now.

10 Q. Yeah, I'll read the names. I'll say the names  
11 again. Mr. Tiderington focused on four Polaroid photos  
12 contained in the investigative file of Felicia Soto,  
13 Rosa Aronda, Jorge Mejia, and Guadalupe Mejia, correct?

14 A. Yes.

15 Q. Okay. And he identified that those Polaroid  
16 photos were contained in the investigative file; is that  
17 right?

18 A. I am looking at my -- I'm trying to look at my  
19 capture, but I think that's what he said, yes.

20 Q. Okay. And you had a copy of the investigative  
21 file from the Soto homicide investigation and you saw  
22 that those Polaroid photos were in the investigative  
23 file, correct?

24 A. Yes.

25 Q. Okay. And you agree that those Polaroid

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1 photos were not contained in the public defender file,  
2 correct, for those four individuals?

3 MS. CARNEY: Objection. Form. You can  
4 answer.

5 THE WITNESS: Well, it's -- it's -- it's hard  
6 for me to answer that because I think I testified  
7 earlier today that physical evidence may be, you  
8 know, clothing, a weapon, and even photographs that  
9 were collected during the investigation, the  
10 prosecutors, maybe instead of Xeroxing them or  
11 copying them, would say, we'll make them available  
12 to you for you to look at them, so --

13 BY MR. SWAMINATHAN:

14 Q. You have -- sorry, you -- let me break that up  
15 here. First of all, you are not claiming that you found  
16 copies of those four Polaroids in any public defender  
17 file; is that right?

18 A. I am not saying that.

19 Q. Okay. And are you saying that you found  
20 copies of those four Polaroid photos in the prosecutor  
21 file from the state's attorney's office produced in the  
22 -- in this case?

23 A. What I'm saying is that the photographs that  
24 are -- are maybe --

25 Q. Nope, you cut -- you --

<p style="text-align: right;">Page 158</p> <p>1 A. -- utilized during that investigation --</p> <p>2 Q. Sorry. Sorry. You cut out entirely there for</p> <p>3 a second and froze in the middle. Can we -- can you</p> <p>4 start over again? Or maybe I need -- can you read back</p> <p>5 the question, sorry, and then let him answer again?</p> <p>6 THE REPORTER: Yeah.</p> <p>7 THE WITNESS: You froze.</p> <p>8 MS. CARNEY: Did you freeze? We -- did we</p> <p>9 lose somebody off of the -- no. Okay.</p> <p>10 MR. SWAMINATHAN: I don't think so. Your</p> <p>11 screen just froze for, like, two seconds, then he</p> <p>12 came back on.</p> <p>13 THE WITNESS: Okay.</p> <p>14 THE REPORTER: Give me one sec.</p> <p>15 (REPORTER PLAYS BACK REQUESTED QUESTION)</p> <p>16 THE WITNESS: What I'm -- what I'm saying is</p> <p>17 that when investigators use Polaroid photographs</p> <p>18 during the course of investigation, it's common for</p> <p>19 them to put them into a -- a folder, like a -- a</p> <p>20 mailing photograph -- not -- mailing folder, which</p> <p>21 they then place into the investigative file, either</p> <p>22 for use at trial or production later on to the</p> <p>23 prosecutor. Often, we -- we don't receive a Xerox</p> <p>24 of the photographs, we tell the defense attorney,</p> <p>25 hey, there was photographs that were used during</p>	<p style="text-align: right;">Page 160</p> <p>1 they want prior to or during trial. So I wouldn't</p> <p>2 necessarily expect to find a Xerox of the photographs,</p> <p>3 or even the original photographs, if they weren't used</p> <p>4 at trial.</p> <p>5 Q. Okay. So let me break that down. So first</p> <p>6 step, you did not find a copy of those four Polaroid</p> <p>7 photos, either originals or copies, in the prosecutor</p> <p>8 file for the Soto homicide, correct?</p> <p>9 MS. GOLDEN: Objection. Asked and answered.</p> <p>10 BY MR. SWAMINATHAN:</p> <p>11 Q. Go ahead.</p> <p>12 A. I said I did not, and -- and -- and -- and --</p> <p>13 and nor would I necessarily expect to find them.</p> <p>14 Q. Okay. And then did you find any notations or</p> <p>15 documentation of any kind that indicated that those</p> <p>16 Polaroid photos had been made available to the defense</p> <p>17 attorney in the Soto homicide investigation?</p> <p>18 A. Those specifically, no, but only by</p> <p>19 implication that there are other photographs, Polaroid</p> <p>20 photographs, that were used during the investigation</p> <p>21 were later on impounded and obviously therefore used at</p> <p>22 trial.</p> <p>23 Q. There were other Polaroid photographs that</p> <p>24 were impounded in evidence, but the -- not those four</p> <p>25 Polaroid photographs, correct?</p>
<p style="text-align: right;">Page 159</p> <p>1 the investigation, they're available for you to</p> <p>2 review. Much like we would save other pieces of</p> <p>3 physical evidence, and -- and frankly other</p> <p>4 photographs, too.</p> <p>5 BY MR. SWAMINATHAN:</p> <p>6 Q. Did you see any evidence that any of those</p> <p>7 four Polaroid photos were contained in the prosecutor</p> <p>8 file?</p> <p>9 A. I -- I did not.</p> <p>10 Q. And you didn't find a copy of those four</p> <p>11 Polaroid photos in the prosecutor file, correct?</p> <p>12 A. I'm just reviewing my notes. I don't think I</p> <p>13 did, though. No. I -- I discussed the other</p> <p>14 photographs, which were impounded with the court.</p> <p>15 Q. Okay. And so you agree that the four photos</p> <p>16 that were contained in the investigative file that Mr.</p> <p>17 Tiderington focused on, none of those were contained in</p> <p>18 the state's attorney filed that you received for the</p> <p>19 Soto homicide investigation, correct?</p> <p>20 A. They were not, but -- but then again, they</p> <p>21 were -- we would not expect a Xerox copy of them in the</p> <p>22 state's attorney file. We would have them produced for</p> <p>23 use at trial or motions, and we would tell defense</p> <p>24 counsel, as we always did, that physical evidence,</p> <p>25 including photographs, they can view them at any time</p>	<p style="text-align: right;">Page 161</p> <p>1 A. Not those four.</p> <p>2 Q. And then there were Polaroid photos that were</p> <p>3 actually produced to the criminal defense attorney that</p> <p>4 were in -- from the investigative file, but not those</p> <p>5 four photos, correct?</p> <p>6 MS. CARNEY: Objection. Form. Foundation.</p> <p>7 THE WITNESS: I don't know that these</p> <p>8 photographs were not made available to the criminal</p> <p>9 defense attorneys.</p> <p>10 BY MR. SWAMINATHAN:</p> <p>11 Q. I'm asking a different question. There were</p> <p>12 -- other than these four Polaroid photos, there were a</p> <p>13 number of other Polaroid photos contained in the</p> <p>14 investigative file, correct?</p> <p>15 A. Are you referring to the ones that were</p> <p>16 eventually inventory -- I mean, in -- that were</p> <p>17 impounded with the court?</p> <p>18 Q. Yes. Some of the other Polaroid photos</p> <p>19 contained in the investigative file, other than these</p> <p>20 four, were impounded with the Court, correct?</p> <p>21 A. Yes.</p> <p>22 Q. And those were photos of four suspects in the</p> <p>23 case, Arturo Reyes, Gabriel Solache, Adriana Mejia,</p> <p>24 Rosauro Mejia, and then Guadalupe Mejia as well,</p> <p>25 correct?</p>

<p style="text-align: right;">Page 162</p> <p>1 MS. CARNEY: Objection. Form. Foundation.</p> <p>2 THE WITNESS: Well, I don't know if all four</p> <p>3 of them were suspects.</p> <p>4 BY MR. SWAMINATHAN:</p> <p>5 Q. When you say you don't know that all four of</p> <p>6 them were suspects, you're saying that because you just</p> <p>7 don't know the investigation that well; is that fair?</p> <p>8 A. That's fair. But also, I -- I mean, I know</p> <p>9 who the three charged defendants were.</p> <p>10 Q. Okay. So let's -- let me just try to do it a</p> <p>11 little more clearly.</p> <p>12 MS. GOLDEN: Well, I have a belated objection</p> <p>13 to form.</p> <p>14 BY MR. SWAMINATHAN:</p> <p>15 Q. Okay. You -- the Polaroid photos that were</p> <p>16 contained in the investigative file, other than the four</p> <p>17 photos that Mr. Tiderington is focused on, you found</p> <p>18 some of those in the impounded exhibits, correct?</p> <p>19 MS. GOLDEN: Form.</p> <p>20 THE WITNESS: Excuse me. Impounded with the</p> <p>21 clerk of the court.</p> <p>22 BY MR. SWAMINATHAN:</p> <p>23 Q. Yes. And then you -- some of those photos,</p> <p>24 other than the four Polaroid photos Mr. Tiderington</p> <p>25 focused on, were found in the state's attorney's office</p>	<p style="text-align: right;">Page 164</p> <p>1 court. You would tell counsel that the -- in the</p> <p>2 police investigative file, there's more Polaroid</p> <p>3 photographs that are available for you to review at</p> <p>4 any time. So you wouldn't necessarily find Xeroxes</p> <p>5 or -- or -- or -- or Xerox -- yeah, Xerox copies of</p> <p>6 those photographs in either file.</p> <p>7 BY MR. SWAMINATHAN:</p> <p>8 Q. I understand, but I would like you to start by</p> <p>9 answering my question, which is whether those documents</p> <p>10 were contained in the public defender or state's</p> <p>11 attorney file, those four Polaroid photos?</p> <p>12 MS. CARNEY: Objection. Form. Foundation.</p> <p>13 Asked and answered.</p> <p>14 THE WITNESS: I did not find them, nor would I</p> <p>15 expect to find them.</p> <p>16 BY MR. SWAMINATHAN:</p> <p>17 Q. Okay. And then those -- in the public</p> <p>18 defender file and prosecutor file, did you see any</p> <p>19 notation anywhere in either of those files that</p> <p>20 indicated that the criminal defense attorney or -- had</p> <p>21 been given access to those pictures? Or strike that.</p> <p>22 Let me --</p> <p>23 MS. CARNEY: Objection.</p> <p>24 BY MR. SWAMINATHAN:</p> <p>25 Q. Let me ask you a better question. Sorry. Did</p>
<p style="text-align: right;">Page 163</p> <p>1 file, correct?</p> <p>2 MS. CARNEY: Objection. Form. Foundation.</p> <p>3 THE WITNESS: I -- I -- I'm not absolutely</p> <p>4 sure about that.</p> <p>5 BY MR. SWAMINATHAN:</p> <p>6 Q. And some of those Polaroid photos, other than</p> <p>7 the ones that Mr. Tiderington focused on, were found in</p> <p>8 the public defender file from the Soto homicide</p> <p>9 investigation, correct?</p> <p>10 MS. CARNEY: Objection. Form. Foundation.</p> <p>11 THE WITNESS: Well, I -- I'm focusing on the</p> <p>12 four that Mr. -- that the plaintiff's expert was</p> <p>13 discussing, the four people in the five</p> <p>14 photographs.</p> <p>15 BY MR. SWAMINATHAN:</p> <p>16 Q. And those four photos that Mr. Tiderington is</p> <p>17 focusing on, were not contained -- that were in the</p> <p>18 investigative file, were not contained in the public</p> <p>19 defender file or the prosecutor file produced in this</p> <p>20 litigation, correct?</p> <p>21 MS. CARNEY: Objection. Form. Foundation.</p> <p>22 You can answer.</p> <p>23 THE WITNESS: As I've said before, photographs</p> <p>24 that were used in this process would not</p> <p>25 necessarily be tendered in formal discovery in</p>	<p style="text-align: right;">Page 165</p> <p>1 you see any indication in the prosecutor file that the</p> <p>2 prosecutor had been made aware of those four Polaroid</p> <p>3 photos?</p> <p>4 MS. CARNEY: Objection. Form. Foundation.</p> <p>5 THE WITNESS: Well, I did not review the</p> <p>6 prosecutor and the defense file in this case.</p> <p>7 BY MR. SWAMINATHAN:</p> <p>8 Q. Okay. And you did not find --</p> <p>9 MS. CARNEY: Hold on. Hold on. He was still</p> <p>10 talking.</p> <p>11 THE WITNESS: I only --</p> <p>12 BY MR. SWAMINATHAN:</p> <p>13 Q. I'm sorry. Go ahead.</p> <p>14 A. I only focused on the allegations that</p> <p>15 Plaintiff's expert made regarding the photographs.</p> <p>16 Q. Okay. And did you find any notation anywhere</p> <p>17 in the prosecutor file indicating that they were aware</p> <p>18 of the existence of those four Polaroid photos?</p> <p>19 MS. CARNEY: Objection. Form. Foundation.</p> <p>20 THE WITNESS: As I said, I did not review the</p> <p>21 prosecutor's file specifically for that. I can</p> <p>22 only discuss the fact that other Polaroid</p> <p>23 photographs were presented in court and impounded</p> <p>24 with the clerk, so it certainly seems logical to me</p> <p>25 that all those photographs were available for</p>

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1 review at trial or even before trial.

2 BY MR. SWAMINATHAN:

3 Q. It would be logical to share them, but do you

4 know if that actually happened?

5 MS. CARNEY: Objection. Form. Foundation.

6 THE WITNESS: I -- I know that that was the --

7 what I've said a few times now, the common practice

8 was to say, there are photographs, there are

9 physical exhibits, that are available for you to

10 review prior to or during trial. So in this case,

11 we've got evidence that -- that some of these

12 photographs were used, so I -- I do find it hard to

13 believe that the other photographs weren't made

14 available for defense counsel to review.

15 BY MR. SWAMINATHAN:

16 Q. What -- you said that there were some Polaroid

17 photos, not these four, that were in the impounded

18 evidence in the clerk's office, correct?

19 A. Yes.

20 Q. Were there -- were any of these four photos

21 found in any impounded evidence at the clerk's Office?

22 A. They were not.

23 Q. Okay. And were any of the --

24 A. Well, one --

25 Q. Did you find any note -- go ahead.

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1 A. Sorry. One of the people, but a different

2 photograph.

3 Q. Okay. And so did you find any -- let's focus

4 on Rosa Aronda and Felicia Soto for a moment. There

5 were Polaroid photos taken by detectives at Area 5 of

6 those two individuals found in the investigative file,

7 correct?

8 A. Yes.

9 Q. Okay. You didn't find any copies of those

10 Polaroid photos of Rosa Aronda and Felicia Soto in any

11 impounded evidence at the -- in the court, correct?

12 A. I did not.

13 Q. And you didn't find any copies of those

14 Polaroid photos of Rosa Aronda and Felicia Soto in any

15 prosecutor file, correct?

16 MS. CARNEY: Object to foundation.

17 THE WITNESS: I did not examine -- I did not

18 find them in -- in the prosecutor file, but I did

19 not examine the prosecutor file at length, so I

20 presume they were not there based upon the

21 allegation of the plaintiff's expert.

22 BY MR. SWAMINATHAN:

23 Q. Did you find any notation in the prosecutor

24 file that indicated that the Felicia Soto or Rosa Aronda

25 Polaroid photos had been provided or shared with the

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1 prosecutor's office?

2 MS. CARNEY: Form.

3 THE WITNESS: By -- specifically by name, no.

4 But as I've said a few times now, the investigative

5 file has a folder in there where all these -- where

6 Polaroid photographs and -- and other photographs

7 could be -- were contained in those envelopes, and

8 prosecutors would review them prior to going to

9 trial. And the evidence of that is the other

10 photographs that were impounded. They obviously

11 had access to them and used them.

12 BY MR. SWAMINATHAN:

13 Q. Is it your testimony that these four photos

14 were contained in the same envelope as the other photos

15 of Mr. Reyes, Ms. Adriana Mejia, and Mr. Solache?

16 MS. CARNEY: Objection. Form. Foundation.

17 THE WITNESS: The -- there's -- for example,

18 the impounded photographs could have been in -- in

19 two places. They could have been in that envelope

20 with -- as well as these other Polaroid

21 photographs, or if they were used in evidence

22 somehow, they could have been contained in an

23 inventory sheet with other evidence that's

24 inventoried. So those are the two places that

25 Polaroid photographs I would expect to find.

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1 BY MR. SWAMINATHAN:

2 Q. Okay. And those are possibilities, but you

3 can't say either of those things is the case in this --

4 in the Soto homicide investigation, correct?

5 MS. CARNEY: Objection. Form. You can

6 answer.

7 THE WITNESS: I can't think of another

8 possibility.

9 BY MR. SWAMINATHAN:

10 Q. Well, another possibility is they didn't get

11 turned over, correct?

12 A. No. The -- I mean, the possibility of where

13 they were stored, and then how they were uncovered

14 during the course of this litigation.

15 Q. Are you claiming that you can say with

16 certainty that those four -- strike that. Let's do it -

17 - let's focus on Aronda and Soto again. Sir, are you

18 claiming that you can say with certainty that the Soto

19 and Aronda photos were disclosed to the prosecutor in

20 this case?

21 MS. GOLDEN: Form.

22 MS. CARNEY: Objection. Form. Foundation.

23 THE WITNESS: Well, since I -- I've not talked

24 to the prosecutors in the case, I don't know that

25 to a certainty, but I'm telling you that the common



<p style="text-align: right;">Page 170</p> <p>1 practice was for those photographs to be made</p> <p>2 available to the prosecution from the investigatory</p> <p>3 -- investigative file prior to trial. And I'm</p> <p>4 saying --</p> <p>5 BY MR. SWAMINATHAN:</p> <p>6 Q. Well, the expectation of the prosecutors,</p> <p>7 is --</p> <p>8 MS. CARNEY: Well --</p> <p>9 MR. SWAMINATHAN: -- that --</p> <p>10 MS. CARNEY: Well --</p> <p>11 MS. GOLDEN: Hold on.</p> <p>12 MR. SWAMINATHAN: Go ahead.</p> <p>13 MS. CARNEY: You interrupted him, Anand.</p> <p>14 MR. SWAMINATHAN: All right.</p> <p>15 THE WITNESS: Yeah. And -- and -- and -- and</p> <p>16 also -- the -- the -- then the sharing of that</p> <p>17 information, which is done in every case with</p> <p>18 defense counsels that there are photographs in the</p> <p>19 investigative file, they're available for you to</p> <p>20 review prior to trial or at trial. And I'm saying</p> <p>21 that the -- for lack of a better word, the</p> <p>22 circumstantial evidence that these photos were made</p> <p>23 available is the fact that other photos were used</p> <p>24 at trial and impounded.</p> <p>25 BY MR. SWAMINATHAN:</p>	<p style="text-align: right;">Page 172</p> <p>1 with the prosecutors, correct?</p> <p>2 MS. CARNEY: Objection. Form. Foundation.</p> <p>3 Misstates his testimony.</p> <p>4 THE WITNESS: I -- I -- what I'm telling you</p> <p>5 is that all the -- all Polaroid photographs that</p> <p>6 are stored in the investigative file are made</p> <p>7 available to the prosecutor.</p> <p>8 BY MR. SWAMINATHAN:</p> <p>9 Q. You know that for a fact that they're always</p> <p>10 made available?</p> <p>11 A. I've never seen a case where they weren't. How</p> <p>12 about that?</p> <p>13 Q. Yeah, but you have no idea whether you got all</p> <p>14 of them. You can't say for sure, can you?</p> <p>15 MS. GOLDEN: Okay. Now you're arguing with</p> <p>16 the witness, so I object to the form. And it's</p> <p>17 becoming harassing.</p> <p>18 BY MR. SWAMINATHAN:</p> <p>19 Q. Go ahead.</p> <p>20 MS. CARNEY: If you can answer his question,</p> <p>21 you can.</p> <p>22 THE WITNESS: I can't answer your question.</p> <p>23 BY MR. SWAMINATHAN:</p> <p>24 Q. Are you able, based on your experience, to</p> <p>25 offer an opinion that all Polaroid photos are always</p>
<p style="text-align: right;">Page 171</p> <p>1 Q. And so the circumstantial evidence you're</p> <p>2 aware of that these photos were shown to the prosecutors</p> <p>3 is that other photos were shown to the prosecutors; is</p> <p>4 that right?</p> <p>5 A. Other photos that in all likelihood were</p> <p>6 contained in the investigative file in the envelope that</p> <p>7 is commonly used for storing photographs.</p> <p>8 Q. Okay. And are you aware -- strike that. And</p> <p>9 what evidence -- strike that. Are you aware of any</p> <p>10 evidence that proves that the Aronda and Soto Polaroid</p> <p>11 photos were shared with the prosecutor?</p> <p>12 MS. GOLDEN: Objection. Form. And -- just</p> <p>13 form.</p> <p>14 THE WITNESS: I -- I -- I don't have personal</p> <p>15 knowledge that they were shared, but I'm -- I'm --</p> <p>16 I'm opining on the common practice of how those</p> <p>17 photographs would be stored and then shared with</p> <p>18 the prosecution later on.</p> <p>19 BY MR. SWAMINATHAN:</p> <p>20 Q. And if the common practice was followed, then</p> <p>21 you would expect these photos to have been shared with</p> <p>22 the prosecutor; is that right?</p> <p>23 A. Yes.</p> <p>24 Q. Okay. And if the common practice was not</p> <p>25 followed, then these photos would not have been shared</p>	<p style="text-align: right;">Page 173</p> <p>1 shared with the defendants in all CPD cases?</p> <p>2 MS. CARNEY: Objection. Form.</p> <p>3 THE WITNESS: All the photographs that -- that</p> <p>4 are in the investigative file, the offer is made to</p> <p>5 the defense attorney to view them and -- and -- and</p> <p>6 -- and use them in any way they might want to use.</p> <p>7 BY MR. SWAMINATHAN:</p> <p>8 Q. And you're able to say that you have the</p> <p>9 ability to vouch for the fact that the Chicago Police</p> <p>10 Department has always shared all Polaroid photos</p> <p>11 contained in its investigative files?</p> <p>12 MS. CARNEY: Objection.</p> <p>13 MS. GOLDEN: Object to form.</p> <p>14 MS. CARNEY: Misstates his testimony. You can</p> <p>15 answer if you understand what he's saying.</p> <p>16 THE WITNESS: Well, I -- I -- the -- the --</p> <p>17 the photographs -- well, the example is this case</p> <p>18 right here. There was photographs in the envelope</p> <p>19 that were used at trial and impounded.</p> <p>20 BY MR. SWAMINATHAN:</p> <p>21 Q. But not the Rosa Aronda and Felicia Soto</p> <p>22 photos, correct?</p> <p>23 MS. GOLDEN: Object to form and foundation.</p> <p>24 MS. CARNEY: Also asked and answered.</p> <p>25 THE WITNESS: They were -- they were</p>



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1       apparently not shared.

2       BY MR. SWAMINATHAN:

3       Q.   Okay. And if the --

4       A.   Let -- let me -- let me -- let me put a caveat

5       to that. They were not shared according to Plaintiff's

6       expert. I -- I don't know, in fact, they were viewed by

7       the defense and decided not to use them at trial.

8       Q.   Did you see -- did you review any of the

9       depositions in this matter discussing those Polaroid

10      photos?

11      A.   I did not.

12      Q.   Okay. Do you know what the prosecutor said --

13      strike that. Do you know if the prosecutor said that

14      they had copies of those Polaroid photos of Felicia Soto

15      and Rosa Aronda?

16      A.   I don't know what they said.

17      Q.   Do you know what the public defender said

18      about whether they had those copies of those Polaroid

19      photos?

20      A.   I do not.

21      Q.   And you agree with me that if those Polaroid

22      photos had been available to the prosecution, you would

23      have shared those with the defense attorneys, correct?

24      A.   I would have made them available.

25      Q.   Okay. And you agree that it -- your

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1       expectation was that if prosecutors in your office had

2       been made aware of those photos, you -- of Felicia Soto

3       and Rosa Aronda, you would have made the public

4       defenders aware of those photos, or criminal defense

5       attorneys?

6       MS. GOLDEN: Object to form.

7       THE WITNESS: I would have made them aware

8       that there are photographs that were collected

9       during the investigation.

10      BY MR. SWAMINATHAN:

11      Q.   Okay. Okay. And then in your report you talk

12      about -- you spent some time talking about the fact that

13      the individuals depicted in these Polaroid photos, like

14      Felicia Soto and Rosa Aronda, are mentioned in other

15      police reports in the case, correct?

16      A.   Soto and Aronda are on the very first page of

17      the general case report.

18      Q.   And is it the fact that these individual's

19      names are mentioned in other places in the police

20      reports, is that a reason why you would choose not to

21      disclose those photos to the extent you knew of them?

22      MS. GOLDEN: Object to foundation.

23      MS. CARNEY: Form. Incomplete hypothetical.

24      THE WITNESS: I -- I -- I -- you have to re-

25      ask that question.

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1       BY MR. SWAMINATHAN:

2       Q.   Yeah. The fact that there were references to

3       these individuals in the police reports, Ms. Soto and

4       Ms. Aronda, is that a reason you would not have

5       disclosed to the defense the existence of these Polaroid

6       photos?

7       MS. GOLDEN: Form and foundation.

8       THE WITNESS: I -- I've -- I've already said

9       that I would tell counsel that photographs were

10      retained in the file for them to review.

11      BY MR. SWAMINATHAN:

12      Q.   And that's true even if their names appeared

13      in other police reports, correct?

14      A.   Yeah, that --

15      MS. GOLDEN: Form.

16      THE WITNESS: The -- the -- the point that I

17      think I -- I made with the Soto and Aronda reports,

18      that I mentioned on the very first page of the

19      report, is, it -- it's not like the existence of

20      those two people were hidden from defense attorney.

21      They're mentioned throughout the reports. Now, the

22      photograph I -- I say the common practice was to

23      make them available, but it wasn't like they -- the

24      two people's identities were hidden from defense

25      counsel.

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1       BY MR. SWAMINATHAN:

2       Q.   I -- I'm asking a different question. The

3       fact that their names appear in the reports in other

4       places, are you saying on that basis you would have

5       chosen not to make that information available to the

6       defendants? Strike that.

7       MS. GOLDEN: Form and foundation.

8       BY MR. SWAMINATHAN:

9       Q.   Strike that. Strike that. Are you claiming

10      that you would not have informed the defendants about

11      the existence of those Polaroid photos if you knew that

12      their names appeared in other places in the reports?

13      MS. CARNEY: Objection.

14      MS. GOLDEN: Objection. Go ahead, Theresa.

15      MS. CARNEY: Incomplete hypothetical.

16      MS. GOLDEN: Foundation.

17      THE WITNESS: I think I said the exact

18      opposite, that I would make photographs available

19      that tell -- tell defense counsel early in

20      discovery that any photographs that are contained

21      in the investigative file, Polaroids, or scene

22      photographs, or any photographs, that will be made

23      available for inspection prior to or during trial.

24      BY MR. SWAMINATHAN:

25      Q.   Okay. And that's even though their names

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1 otherwise appear in the police report; is that correct?

2 A. Their -- yeah. Their names appearing in the

3 report doesn't -- doesn't have any bearing on making

4 photographs available.

5 Q. Okay. And then if we talk about these

6 specific reports -- these specific Polaroid photos of

7 Rosa Aronda and Felicia Soto, you say that the fact that

8 there are Polaroid photos of these people doesn't

9 necessarily mean that they were treated as suspects,

10 correct?

11 A. That's correct.

12 Q. And Mr. Tiderington doesn't argue that every

13 person for whom there is a Polaroid photo in a file is a

14 suspect, does he?

15 A. He kind of argues a different variation on

16 that. He says that if -- if -- if the defense --

17 defense counsel knew of the photographs, they would have

18 pursued them in a different manner. So he -- he is

19 essentially saying that he would view them as

20 alternative suspects.

21 Q. Did you review the depositions of -- the

22 deposition of Felicia Soto in this case?

23 A. I did not.

24 Q. Do you know what Felicia Soto said about how

25 she was treated during the course of this investigation?

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1 A. I do not. I -- I know what the plaintiff's

2 expert says about the -- the significance of the

3 photographs, though.

4 Q. Okay. And you're -- and you -- would you

5 agree that sometimes Polaroid photos are taken of people

6 who are suspects?

7 A. They use -- yes, that -- that's true.

8 Q. Okay. And in fact, in this case, there are a

9 number of Polaroid photos of -- taken of people who we

10 definitely know to have been suspects, correct?

11 A. They were charged.

12 Q. Yes. Is that a yes?

13 A. Yes.

14 Q. Okay. And so, in this case, the existence of

15 Polaroid photos may be an indication that these four

16 people were suspects or not, correct?

17 MS. GOLDEN: Foundation.

18 MS. CARNEY: Form. Foundation.

19 THE WITNESS: Well, that -- that ignores what

20 the plaintiff's expert says in his report. He says

21 that it -- they would have had additional reason to

22 contact these witness and learn why they had been

23 at the station and questioned and what information

24 they had revealed. All that information, what they

25 revealed, was contained in all the reports, so

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1 irrespective of a photograph, they had reason they

2 could pursue how they were -- how they were

3 interviewed and the information contained in there.

4 He -- he's -- he -- he's equating the -- the

5 existence of a Polaroid photograph with the fact

6 that somebody must be a suspect. And I -- I take

7 issue with that.

8 BY MR. SWAMINATHAN:

9 Q. In this case, he relied on more than just the

10 fact that there was a Polaroid photo of these

11 individuals to conclude that there was -- that these

12 people were treated as suspects, correct?

13 A. Well, his -- his -- his plain statement, I'm

14 reading from my report, is, "Had defense counsel had

15 these Polaroid photographs, he or she would have had

16 additional reason to contact these witnesses and learn

17 about what -- about why they had been at the station and

18 questioned and what information they had revealed."

19 Everything he says after the existence of the

20 photographs was detailed to a certain extent in the

21 police reports. It didn't preclude him, defense

22 counsel, from going and -- and interviewing those

23 witnesses further.

24 Q. And so --

25 A. So what I'm trying to say is, he is equating

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1 Polaroid photographs with suspects.

2 Q. Okay. And when he offered his opinions, was

3 it that he did so having had an opportunity to review

4 Felicia Soto's deposition, correct?

5 MS. GOLDEN: Objection. Form. Foundation.

6 THE WITNESS: I -- I assume he did -- did.

7 BY MR. SWAMINATHAN:

8 Q. I'm sorry. Yeah. And let me ask a better

9 question. When you reviewed the files and -- strike

10 that. When you reviewed the investigative file in this

11 case, did the police reports contain any indication that

12 Felicia Soto or Rosa Aronda had been treated as

13 suspects?

14 MS. GOLDEN: Object to form.

15 THE WITNESS: I -- I -- I did not review the

16 extent of their interviews other than the fact that

17 they were interviewed. And that was the point of

18 my -- in my report that there was extensive

19 material about those two people in the police

20 reports.

21 BY MR. SWAMINATHAN:

22 Q. You said there was very extensive material

23 about interviews with those two people?

24 A. Well, the -- like I said in my report, they're

25 on the very first page of the general case report and

<p style="text-align: right;">Page 182</p> <p>1 their knowledge is discussed there and throughout the</p> <p>2 file, and again in supplementary reports, starting on</p> <p>3 Solache-Reyes 2363. So they're mentioned in the police</p> <p>4 reports. They're certainly not -- their existence and</p> <p>5 the fact that they're at a police station has certainly</p> <p>6 not been concealed from defense counsel.</p> <p>7 Q. Did you view the -- did you -- were you aware</p> <p>8 of any testimony from Rosa Aronda about being put in an</p> <p>9 interrogation room for hours?</p> <p>10 A. I'm not.</p> <p>11 Q. Did you review any testimony from Rosa Aronda</p> <p>12 about interrogating -- being interrogated harshly by</p> <p>13 detectives?</p> <p>14 A. I think I said earlier I didn't review any of</p> <p>15 the depositions, so I'm not -- I'm not aware of any of</p> <p>16 that.</p> <p>17 Q. Did you see any indication in the police file</p> <p>18 that she had been kept in an interrogation room for</p> <p>19 hours and interrogated harshly by detectives?</p> <p>20 MS. GOLDEN: Objection. Form.</p> <p>21 THE WITNESS: I would submit the fact that she</p> <p>22 is listed on the first page of the report and that</p> <p>23 she was interviewed in some of those materials</p> <p>24 included in supplemental report as well.</p> <p>25 BY MR. SWAMINATHAN:</p>	<p style="text-align: right;">Page 184</p> <p>1 hypothetical.</p> <p>2 THE WITNESS: I -- I really have a hard time</p> <p>3 understanding that question.</p> <p>4 BY MR. SWAMINATHAN:</p> <p>5 Q. Yeah. As a prosecutor, if a person was simply</p> <p>6 interviewed and provided information, as opposed to</p> <p>7 being interrogated and accused of having knowledge or</p> <p>8 involvement in the crime, would it matter to you the</p> <p>9 difference between those two things, or are those just</p> <p>10 one and the same to you?</p> <p>11 MS. CARNEY: Form and foundation.</p> <p>12 THE WITNESS: They're not one and the same,</p> <p>13 but in the course of investigation, the officers</p> <p>14 have to -- they don't know who the offenders are,</p> <p>15 so they -- they may, to use your word, interrogate</p> <p>16 rather than question. That may be a part of their</p> <p>17 interviews that they're conducting to find out what</p> <p>18 -- what they have in front of them, a suspect or a</p> <p>19 -- a -- or defendant or a witness. They -- they --</p> <p>20 I don't presume them to know on every single case,</p> <p>21 the first time they meet someone, to know whether</p> <p>22 they're an offender or not.</p> <p>23 BY MR. SWAMINATHAN:</p> <p>24 Q. Do you say they are one and the same or not</p> <p>25 one and the same?</p>
<p style="text-align: right;">Page 183</p> <p>1 Q. Did you see any indication in the -- strike</p> <p>2 that. Did you review any testimony about the fact that</p> <p>3 she -- strike that. Did you review any testimony</p> <p>4 indicating that she had been accused of having knowledge</p> <p>5 about the crime by detectives?</p> <p>6 A. As I said to you before, I did not review any</p> <p>7 of her depositions.</p> <p>8 Q. Did you see anything in the investigative file</p> <p>9 that you reviewed that indicated that Rosa Aronda had</p> <p>10 been accused of having knowledge about the crime during</p> <p>11 the course of an interrogation?</p> <p>12 A. Well --</p> <p>13 MS. CARNEY: Objection. Form.</p> <p>14 THE WITNESS: In -- in -- in the -- in the way</p> <p>15 you're paraphrasing it, I don't think it was worded</p> <p>16 that way, but the fact that -- that they were</p> <p>17 interviewed in -- and -- and there were interviews</p> <p>18 referred to in the police reports, indicating the</p> <p>19 investigators are trying to find out what happened.</p> <p>20 BY MR. SWAMINATHAN:</p> <p>21 Q. As a prosecutor, would it matter to you if</p> <p>22 somebody was simply interviewed or if that person was</p> <p>23 subjected to an interrogation in which they were accused</p> <p>24 of involvement or knowledge about a crime?</p> <p>25 MS. CARNEY: Objection. Form. Incomplete</p>	<p style="text-align: right;">Page 185</p> <p>1 A. I said they're not one and the same.</p> <p>2 Q. Okay. And then did you -- would you agree</p> <p>3 with me that the investigative file in this case</p> <p>4 contained interviews of many more people than the people</p> <p>5 for whom there were Polaroid photos?</p> <p>6 MS. CARNEY: Objection. Form. You can</p> <p>7 answer.</p> <p>8 THE WITNESS: I did not review the police</p> <p>9 reports to that extent.</p> <p>10 BY MR. SWAMINATHAN:</p> <p>11 Q. Okay. And would it be -- surprise you to hear</p> <p>12 that there were interviews of many, many more people at</p> <p>13 the police station than are -- than for whom there are</p> <p>14 photos, Polaroid photos, in the investigative file?</p> <p>15 MS. GOLDEN: Form.</p> <p>16 THE WITNESS: Yeah, they -- all I know is the</p> <p>17 photographs that we have in front of us.</p> <p>18 BY MR. SWAMINATHAN:</p> <p>19 Q. Okay. And so you're not claiming that they</p> <p>20 took Polaroid photos of everybody who was brought to the</p> <p>21 police station and interviewed, are you?</p> <p>22 MS. CARNEY: Objection. Form. Misstates his</p> <p>23 testimony.</p> <p>24 THE WITNESS: I don't know the -- the reason</p> <p>25 for taking any photographs. I suggested some</p>

<p style="text-align: right;">Page 186</p> <p>1 reasons why they might have taken Polaroid</p> <p>2 photographs. Maybe one of the primary ones in</p> <p>3 there is if you're handing an investigation off to</p> <p>4 someone and you want to -- you want to verify who's</p> <p>5 already been talked to and who's -- and the name</p> <p>6 that the person provided. So for the detectives</p> <p>7 from one shift to another shift to understand who's</p> <p>8 been interviewed and what their photograph was.</p> <p>9 Now, did -- did -- they did -- they didn't take</p> <p>10 other photographs of other people. I -- I don't</p> <p>11 know why they didn't. Or -- or, frankly, I don't</p> <p>12 know why they necessarily did with these people,</p> <p>13 other than that they were, again, Aronda and -- and</p> <p>14 Soto were the very first people they met. Maybe</p> <p>15 that's why they took those photographs. But I'm --</p> <p>16 I'm speculating on why they took those photographs.</p> <p>17 BY MR. SWAMINATHAN:</p> <p>18 Q. All right. You don't know why they took the</p> <p>19 photos of Felicia Soto and Rosa Aronda?</p> <p>20 A. No. My point is just the mere fact of taking</p> <p>21 a Polaroid photograph doesn't make you a suspect.</p> <p>22 Q. I -- I'm not asking you about that. I'm</p> <p>23 simply asking you, did you find any indication in the</p> <p>24 police file about why they took photos of Felicia Soto</p> <p>25 and Rosa Aronda?</p>	<p style="text-align: right;">Page 188</p> <p>1 deposition, so I do not know what they said.</p> <p>2 BY MR. SWAMINATHAN:</p> <p>3 Q. And do you have -- did you review any</p> <p>4 information in the course of your work on this matter</p> <p>5 about what they said about how Ms. Guadalupe Mejia had</p> <p>6 been treated when she was in an interrogation room?</p> <p>7 MS. CARNEY: Objection. Form. Foundation.</p> <p>8 THE WITNESS: Excuse me. No.</p> <p>9 BY MR. SWAMINATHAN:</p> <p>10 Q. And if -- Guadalupe Mejia, you understand that</p> <p>11 she gave a statement incriminating Mr. Reyes and</p> <p>12 Mr. Solache and Ms. Mejia in this case?</p> <p>13 A. My understanding is she gave a handwritten</p> <p>14 statement. I assumed it was pertinent to the course of</p> <p>15 the investigation. I don't know exactly what's</p> <p>16 contained in it.</p> <p>17 Q. If a witness who gave a statement used against</p> <p>18 the defendant had been themselves treated as a suspect</p> <p>19 during the course of the investigation, is that</p> <p>20 information you would've expected to be disclosed to</p> <p>21 you?</p> <p>22 MS. CARNEY: Objection. Form. Foundation.</p> <p>23 Incomplete hypothetical.</p> <p>24 THE WITNESS: I -- I don't know how to answer</p> <p>25 the question. It -- it's -- it -- it -- during a</p>
<p style="text-align: right;">Page 187</p> <p>1 A. No.</p> <p>2 MS. CARNEY: Objection.</p> <p>3 MS. GOLDEN: Form.</p> <p>4 MR. SWAMINATHAN: Go ahead.</p> <p>5 MS. CARNEY: Form. Foundation. Asked and</p> <p>6 answered. You can answer.</p> <p>7 THE WITNESS: I -- I didn't review the police</p> <p>8 reports to that extent to -- to look for that, but</p> <p>9 from -- not from what I reviewed anyway.</p> <p>10 BY MR. SWAMINATHAN:</p> <p>11 Q. Okay. And do you -- did you find anything in</p> <p>12 the police file to help you understand why, of all the</p> <p>13 people who they interviewed at the police station in</p> <p>14 this case, they took photos of these particular people?</p> <p>15 A. I didn't review the police reports for that</p> <p>16 information.</p> <p>17 Q. Okay. For Guadalupe Mejia and Jorge Mejia,</p> <p>18 you didn't review their depositions either, correct?</p> <p>19 A. That's correct.</p> <p>20 Q. And do you know what they said about whether</p> <p>21 Guadalupe Mejia had been treated as a suspect in this</p> <p>22 case?</p> <p>23 MS. GOLDEN: Object to form.</p> <p>24 MS. CARNEY: Foundation.</p> <p>25 THE WITNESS: I did not review their</p>	<p style="text-align: right;">Page 189</p> <p>1 course of investigation, as you're interviewing</p> <p>2 somebody, you're gaining information about their</p> <p>3 involvement. Does that mean they -- they -- they</p> <p>4 were treated as a suspect or treated as a witness?</p> <p>5 I don't think that's evident, even in the course of</p> <p>6 an investigation. Any investigation.</p> <p>7 BY MR. SWAMINATHAN:</p> <p>8 Q. Well, if an individual had been treated as a</p> <p>9 suspect, would you expect to be informed of that</p> <p>10 information as a prosecutor?</p> <p>11 MS. CARNEY: Objection. Form. Incomplete</p> <p>12 hypothetical.</p> <p>13 THE WITNESS: Well, the problem I have with --</p> <p>14 with -- with your hypothetical is that they're</p> <p>15 interviewing people and they -- they may not know</p> <p>16 their involvement either way. So as they're</p> <p>17 interviewing them, they're trying to gather</p> <p>18 information. That doesn't mean they necessarily</p> <p>19 treated them, "as a suspect." They're interviewing</p> <p>20 them and the people are providing information,</p> <p>21 which later on turns into a handwritten statement.</p> <p>22 That doesn't necessarily mean they were treated as</p> <p>23 a suspect or not treated as a suspect.</p> <p>24 BY MR. SWAMINATHAN:</p> <p>25 Q. Could it be important to the prosecution and</p>



<p style="text-align: right;">Page 190</p> <p>1 defense to understand the potential motivations of a</p> <p>2 person who gives a statement, a handwritten statement,</p> <p>3 in an investigation?</p> <p>4 A. I don't understand what you mean by their</p> <p>5 motivation.</p> <p>6 Q. Let's try -- let's move on. In the work you</p> <p>7 performed in this case, did you conduct any review of</p> <p>8 the history of Brady violations within the Chicago</p> <p>9 Police Department?</p> <p>10 MS. CARNEY: Objection. Form. Foundation.</p> <p>11 THE WITNESS: I did not.</p> <p>12 BY MR. SWAMINATHAN:</p> <p>13 Q. Your materials review don't list any historic</p> <p>14 study of instances of Brady violations in the Chicago</p> <p>15 Police Department; is that true?</p> <p>16 MS. CARNEY: Objection. Form.</p> <p>17 THE WITNESS: I did -- I did not include any</p> <p>18 reports referring to an investigation of Brady</p> <p>19 violations in the Chicago Police Department.</p> <p>20 BY MR. SWAMINATHAN:</p> <p>21 Q. Okay. And putting aside investigations of</p> <p>22 Brady violations, did you go out and look for</p> <p>23 information in -- just in internet searches or in any</p> <p>24 other form for information about prior Brady violations</p> <p>25 in the Chicago Police Department?</p>	<p style="text-align: right;">Page 192</p> <p>1 Office? We're talking about that throughout,</p> <p>2 right?</p> <p>3 MR. SWAMINATHAN: Yes.</p> <p>4 THE WITNESS: Not that I'm aware of.</p> <p>5 BY MR. SWAMINATHAN:</p> <p>6 Q. Are you aware of any instances in your time as</p> <p>7 a prosecutor in which there was a Brady violation that</p> <p>8 resulted from a failure for documents to be produced by</p> <p>9 the police department?</p> <p>10 MS. CARNEY: Objection. Form. Foundation.</p> <p>11 Incomplete hypothetical. I'll take that one back.</p> <p>12 Just form.</p> <p>13 THE WITNESS: Let me understand that again.</p> <p>14 When I was working for the Cook County State's</p> <p>15 Attorney's Office?</p> <p>16 BY MR. SWAMINATHAN:</p> <p>17 Q. Correct.</p> <p>18 A. Well, there -- there could be cases reversed</p> <p>19 on appeal where there's a determination that maybe not</p> <p>20 all reports were tendered or -- or information of that</p> <p>21 nature. I'm not sure if it'd be Brady. It might just</p> <p>22 be discovery obligations. So I'm aware --</p> <p>23 Q. You mean you -- I'm sorry. Go ahead.</p> <p>24 A. I'm aware of maybe appellate reversals, but I</p> <p>25 don't know of any studies by the State's Attorney's</p>
<p style="text-align: right;">Page 191</p> <p>1 A. I did not.</p> <p>2 Q. Did -- in performing your work in this case,</p> <p>3 did you conduct any legal research to see how many</p> <p>4 findings there are of Brady violations against Chicago</p> <p>5 police officers?</p> <p>6 A. I did not.</p> <p>7 Q. And in the CC -- strike that. In the State's</p> <p>8 Attorney's Office, did you keep any database or</p> <p>9 compilation of instances of Brady violations by the</p> <p>10 Chicago Police Department?</p> <p>11 MS. CARNEY: Objection. Form. Foundation.</p> <p>12 And I'm just going to add a belated objection to</p> <p>13 the previous questions as to foundation as to the</p> <p>14 history of Brady violations. Sorry, you're going</p> <p>15 too fast, so I can't get them in.</p> <p>16 MR. SWAMINATHAN: Fair.</p> <p>17 BY MR. SWAMINATHAN:</p> <p>18 Q. Go ahead.</p> <p>19 A. So I'm sorry, I forgot the question.</p> <p>20 Q. I'll ask it again. Did the State's Attorney's</p> <p>21 Office keep any database or compilation of Chicago</p> <p>22 Police Department Brady violations?</p> <p>23 MS. CARNEY: Objection. Form. Foundation.</p> <p>24 MS. GOLDEN: And can you make sure that you're</p> <p>25 talking about the Cook County State's Attorney's</p>	<p style="text-align: right;">Page 193</p> <p>1 Office -- or -- or compilations by the State's</p> <p>2 Attorney's office.</p> <p>3 Q. When you said there could be, I'm not asking</p> <p>4 about a hypothetical. You're aware of instances when</p> <p>5 that did occur while you were in the Cook County State's</p> <p>6 Attorney's Office, correct?</p> <p>7 MS. GOLDEN: Form.</p> <p>8 THE WITNESS: Well, I would say there's a</p> <p>9 difference between a Brady reversal and maybe a</p> <p>10 reversal for incomplete discovery, which is not</p> <p>11 necessarily Brady. It's, I don't know, another</p> <p>12 report wasn't provided, which could cause a new</p> <p>13 trial. So I -- I -- I -- I don't know if I can</p> <p>14 name one right now, but I'm -- I'm -- I'm sure</p> <p>15 there are examples.</p> <p>16 BY MR. SWAMINATHAN:</p> <p>17 Q. Okay. And so you're aware, during the time</p> <p>18 that you were in the State -- Cook County State's</p> <p>19 Attorney's Office, that there were instances where the</p> <p>20 appellate courts reversed convictions based on discovery</p> <p>21 violation for the failure to disclose some police</p> <p>22 document, fair?</p> <p>23 A. Yes.</p> <p>24 Q. Okay. And how many instances like that are</p> <p>25 you aware of?</p>



<p style="text-align: right;">Page 194</p> <p>1 A. I can't name one specifically. I'm just aware</p> <p>2 of the reversal.</p> <p>3 Q. Okay. And it happened. In other words, it</p> <p>4 happened. You can't put a specific finger on exactly</p> <p>5 how many times it happened, but it happened?</p> <p>6 A. Yeah. I mean, frankly, I can't think of a</p> <p>7 case right now, but I'm -- I know it's happened.</p> <p>8 Q. Okay. And in those instances where it</p> <p>9 happened, was it a result of a failure to tender</p> <p>10 materials by a prosecutor or by a Chicago police</p> <p>11 officer?</p> <p>12 MS. GOLDEN: Foundation.</p> <p>13 THE WITNESS: I don't have that specific</p> <p>14 information for you.</p> <p>15 BY MR. SWAMINATHAN:</p> <p>16 Q. In the instances where there were reversals</p> <p>17 based on discovery violations, are you aware of any</p> <p>18 attempts to follow-up and find out whether it was a</p> <p>19 result of the prosecutor failing to tender the material</p> <p>20 or the police department failing to tender the material?</p> <p>21 MS. CARNEY: Objection. Foundation.</p> <p>22 THE WITNESS: I -- I -- I don't -- I'm not</p> <p>23 privy to that information.</p> <p>24 BY MR. SWAMINATHAN:</p> <p>25 Q. Okay. And so is it fair to say that you're</p>	<p style="text-align: right;">Page 196</p> <p>1 MS. CARNEY: Objection. Form. Foundation.</p> <p>2 THE WITNESS: I'm not sure what I would</p> <p>3 review, but since I'm not offering an opinion on</p> <p>4 it, I don't know what I would've done.</p> <p>5 BY MR. SWAMINATHAN:</p> <p>6 Q. Okay. How many instances of Brady violations</p> <p>7 by the Chicago Police Department would it take to start</p> <p>8 to get you concerned about a systemic problem?</p> <p>9 MS. CARNEY: Objection. Form. Foundation.</p> <p>10 THE WITNESS: We -- as prosecutors, we never</p> <p>11 want to provide incomplete information to a</p> <p>12 defendant ever. His liberty is at stake, so we</p> <p>13 never want to have any violations of Brady. We --</p> <p>14 that's why we are so vigorous in trying to make</p> <p>15 sure we've obtained every report possible and</p> <p>16 provide them to a defense attorney.</p> <p>17 BY MR. SWAMINATHAN:</p> <p>18 Q. And despite those vigorous efforts, there were</p> <p>19 instances when Chicago Police Department failed to</p> <p>20 tender all of the materials it should have to</p> <p>21 prosecutors. Is that fair to say?</p> <p>22 A. Well, you know --</p> <p>23 MS. CARNEY: Objection. Form.</p> <p>24 THE WITNESS: -- since again --</p> <p>25 MS. CARNEY: But you -- I'm sorry. Go ahead.</p>
<p style="text-align: right;">Page 195</p> <p>1 not claiming to have conducted a review to determine if</p> <p>2 there was a systemic problem with Brady violations in</p> <p>3 the Chicago Police Department?</p> <p>4 MS. CARNEY: Objection. Form. Misstates the</p> <p>5 testimony. You can answer.</p> <p>6 THE WITNESS: I did not -- I did not, during</p> <p>7 my time at the Cook County State's Attorney's</p> <p>8 Office, conduct an investigation into Brady</p> <p>9 violations.</p> <p>10 BY MR. SWAMINATHAN:</p> <p>11 Q. Okay. And in your work in this case, you're</p> <p>12 not claiming that you've conducted a review to determine</p> <p>13 if there were systemic problems with Brady violations</p> <p>14 within the Chicago Police Department, correct?</p> <p>15 A. I did not study the Chicago Police Department</p> <p>16 for a determination of systemic Brady violations. I did</p> <p>17 not do that.</p> <p>18 Q. Okay. And you aren't disclosing opinions</p> <p>19 about whether there were systemic Brady violations</p> <p>20 within the Chicago Police Department in the 1990s,</p> <p>21 correct?</p> <p>22 A. I'm not opining on that.</p> <p>23 Q. Okay. If you were going to opine on that,</p> <p>24 there's a lot more that you would have reviewed, suffice</p> <p>25 to say, fair?</p>	<p style="text-align: right;">Page 197</p> <p>1 THE WITNESS: I apologize. Since I did not do</p> <p>2 a study of that, I don't know if the -- the Brady -</p> <p>3 - how many Brady violations there are. Are they by</p> <p>4 the Chicago Police Department? Are -- are they by</p> <p>5 the prosecutor for not tendering a report that they</p> <p>6 had received? I don't know if it's a report from a</p> <p>7 hospital that should have been provided by the</p> <p>8 prosecutors and were not provided. So I don't have</p> <p>9 a good handle on the extent of -- of the number of</p> <p>10 Brady violations and if they were created by the</p> <p>11 Chicago Police Department.</p> <p>12 BY MR. SWAMINATHAN:</p> <p>13 Q. Okay. Did you have instances from your --</p> <p>14 from cases that you were the prosecutor on where the</p> <p>15 cases were later reversed based on a discovery</p> <p>16 violation?</p> <p>17 A. I've had reversals, but not based upon Brady.</p> <p>18 Q. And what about reversals based on discovery</p> <p>19 violations?</p> <p>20 A. I don't think I've ever had a reversal on --</p> <p>21 on a discovery violation.</p> <p>22 Q. Okay.</p> <p>23 A. I'm pretty confident.</p> <p>24 Q. I'm sorry. You can go ahead.</p> <p>25 A. I'm pretty confident that I didn't.</p>

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1 Q. Okay. And let me ask you specifically about  
2 your work as an expert. As part of your expert work for  
3 the city in recent years, you did learn about some Brady  
4 violations, correct?

5 A. The -- yes. Allegations made in the -- in the  
6 -- in the lawsuits, yes.

7 Q. Okay. And ultimately, you agree that in --  
8 some of the evidence you reviewed caused you to find  
9 that in fact there had been Brady violations in -- at  
10 least in some cases that you reviewed as part of your  
11 expert work, correct?

12 MS. GOLDEN: Form.

13 MS. CARNEY: Objection. Form.

14 THE WITNESS: I -- I don't know if I agree  
15 that I found Brady violations in the files I  
16 reviewed. I don't know. I don't think that's  
17 accurate.

18 BY MR. SWAMINATHAN:

19 Q. You offered opinions in the Nathson Fields  
20 case, correct?

21 A. Yes.

22 Q. And in the Nathson Field [sic] case, the  
23 Chicago Police Department admitted that it had an entire  
24 file of investigative information that it did not  
25 disclose to the prosecution or defense, correct?

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1 A. Yeah. I'm -- I'm aware of that, but in that  
2 case, I was not reviewing the -- that file. I'm aware  
3 that that was part of that case. But, again, I was  
4 reviewing other files.

5 Q. So in that case, you were aware that admission  
6 -- that CPD had basically admitted that it failed to  
7 turn over investigative information to the prosecution  
8 and defense, correct?

9 MS. GOLDEN: Object to form.

10 THE WITNESS: And I -- I know there was  
11 reports. I -- I want to say the initial  
12 supplemental reports were not turned over before  
13 the first trial. So I know that to be true. But I  
14 don't know the circumstances surrounding how they  
15 were -- why -- how and why they were not tendered.

16 BY MR. SWAMINATHAN:

17 Q. The file that was not tendered in that case by  
18 the police department included things like alternate  
19 suspects and alternate motives, correct?

20 MS. CARNEY: Objection. Form. Foundation.

21 THE WITNESS: Yeah. Which I -- yes, I think  
22 that's true. I -- I know they were discounted by  
23 the time they went to trial.

24 BY MR. SWAMINATHAN:

25 Q. And when you say they were discounted by the

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1 time they went to trial, what do you mean?

2 A. Well, the statements of witnesses to the  
3 actual two shooters.

4 Q. Can you say what you mean? I'm not sure I  
5 understand.

6 A. Well, the -- the two defendants who were  
7 eventually charged, my -- my understanding of that case  
8 is there was like a year gap, or something like that,  
9 before those two defendants were charged. So yes, the  
10 alternative suspects or other people -- I'm not sure if  
11 I'd call them alternative suspects, but other people  
12 were interviewed in the days following the murder. Those  
13 -- I believe that was the report that was not provided  
14 to defense attorneys.

15 Q. And in that, you recall, you testified at the  
16 trial in the Fields case, correct?

17 A. Yes.

18 Q. And you remember Mr. Loevy was showing you a  
19 number of different documents contained in the Street  
20 Files from the Fields case that had never been disclosed  
21 to prosecutors or the defense?

22 MS. CARNEY: Objection. Form. Foundation.

23 And I -- if you're going to -- form and foundation  
24 right now. Let's see if you can answer the  
25 question.

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1 THE WITNESS: It -- it's been quite a long  
2 time since that trial, so I -- I remember being  
3 crossed on the -- those reports. And I think my  
4 answer is what I said to you earlier today. I did  
5 not specifically review those files for my expert  
6 report in that case.

7 BY MR. SWAMINATHAN:

8 Q. Okay. And you didn't ultimately dispute in  
9 that case that there were documents that had not been  
10 disclosed to the defense in that case, correct?

11 MS. GOLDEN: Object to form.

12 THE WITNESS: That was, again, not what I  
13 focused on from my report.

14 BY MR. SWAMINATHAN:

15 Q. And in that case, you did something you didn't  
16 do in this case. You conducted a comprehensive review  
17 of all the investigative files compared to the  
18 corresponding prosecutor files that were available,  
19 correct?

20 MS. CARNEY: Objection. Asked and answered.

21 You can answer again.

22 THE WITNESS: I -- I believe the field was  
23 narrowed down somewhat, but it was far more files  
24 than I reviewed in Rivera.

25 BY MR. SWAMINATHAN:

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1 Q. Okay. And in your review in the Fields case,  
2 you found a number of instances in which documents that  
3 were in the police file were not contained in the  
4 prosecutor file, correct?

5 MS. CARNEY: Objection. Form.

6 THE WITNESS: Well, the -- as is true with the  
7 public defender's file, there was -- there was  
8 never an -- there was never a claim that  
9 prosecutor's files were complete either. They were  
10 pretty incomplete and there was plenty of missing  
11 prosecutor files as well. So there's a police  
12 report in an investigative file or the RD file, and  
13 it was not in the prosecutor's file. It -- the --  
14 there was -- was strong evidence in most of those  
15 files, if not all of them, that the prosecutor's  
16 file didn't exist or was incomplete in its own  
17 right.

18 BY MR. SWAMINATHAN:

19 Q. What evidence did you have that -- putting  
20 aside instances when there was no prosecutor file  
21 available, what evidence are you aware of that the  
22 prosecutor files that were provided to you were  
23 incomplete?

24 A. Well, they didn't have all the supplemental  
25 reports in them. Didn't have basic case reports. Didn't

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1 have -- you can go on and on. Didn't have the closing  
2 supps. Didn't have GPRs. So it's pretty obvious that  
3 the prosecutor files were incomplete, too.

4 Q. In that case, you agree that in the prosecutor  
5 files that you had, in every instance, you found  
6 documents that were in the police file that were not in  
7 the prosecutor file, correct?

8 MS. GOLDEN: Object to form.

9 THE WITNESS: I'm sorry. Could you say again?

10 BY MR. SWAMINATHAN:

11 Q. Yeah. You acknowledged that in every  
12 investigative file that you looked at, there were  
13 documents from that police file that were not in the  
14 prosecutor files for those corresponding cases, correct?

15 MS. GOLDEN: Same objection.

16 THE WITNESS: Yeah, but I would put the caveat  
17 on that that I -- I was not claiming that the  
18 prosecutor files were complete.

19 BY MR. SWAMINATHAN:

20 Q. Okay. And in that case, you found numerous  
21 files in which there were documents that were missing  
22 from both the -- strike that. In that case, you found  
23 numerous instances in which documents that were missing  
24 from the public defender file were also missing from the  
25 prosecutor file, correct?

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1 MS. CARNEY: Objection. Form.

2 THE WITNESS: And -- and it would be based on  
3 the same flawed premise that the -- the public  
4 defender's files were complete. They -- they were  
5 not complete.

6 BY MR. SWAMINATHAN:

7 Q. In each given instance, it could be that the  
8 reason the document is missing from both the public  
9 defender file and the state's attorney file is that both  
10 those files are incomplete. And another reason could be  
11 that the document wasn't disclosed to the prosecution  
12 and the defense, correct?

13 MS. GOLDEN: Form.

14 THE WITNESS: I don't agree with that.

15 BY MR. SWAMINATHAN:

16 Q. So you're saying that in instances where a  
17 document is missing from both the public defender file  
18 and the state's attorney file, it's not possible that  
19 the explanation is that that -- the police failed to  
20 turn over that document. Is that your testimony?

21 A. No.

22 MS. GOLDEN: Form.

23 MS. CARNEY: Hold on. Hold on. Form.

24 Foundation. You can answer.

25 THE WITNESS: No. My contention is that the

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1 files are so obviously incomplete that you -- you  
2 cannot say, "gee, this form, because it's missing  
3 from both files, that it therefore was never  
4 tendered by the police." The fact is both files in  
5 many cases were wholly inadequate as to what -- the  
6 universe of files and reports that would've been  
7 tendered. So it's --

8 BY MR. SWAMINATHAN:

9 Q. How many prosecutor files --

10 MS. CARNEY: Hold on. Hold on.

11 MR. SWAMINATHAN: Oh, I'm sorry.

12 MS. CARNEY: He was still talking.

13 BY MR. SWAMINATHAN:

14 Q. I'm sorry. You can go ahead.

15 A. No, I'm saying to you that the -- the -- the  
16 -- the basic flawed interpretation by Brassfield and by  
17 this expert is that these files years and years, 25 and  
18 30 years later are complete as they were on the eve of  
19 trial. Most of the examples are -- they're -- they're  
20 wholly inadequate. They're not even close to what  
21 would've been tendered -- expected to be tendered during  
22 the discovery process.

23 Q. During the course of your time as a  
24 prosecutor, how often did you go into the packaged-up  
25 trial files and pull materials -- pull police reports

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1 out of those files?

2 MS. GOLDEN: Form.

3 THE WITNESS: I don't understand what you mean

4 by packaged-up police files.

5 BY MR. SWAMINATHAN:

6 Q. You said that when you completed a trial that

7 ended in a conviction, you would close up -- you --

8 you'd close up the file and you'd package it up and send

9 it to storage, right?

10 MS. CARNEY: Objection. Misstates his

11 testimony. You can answer.

12 THE WITNESS: The -- when I finished -- my

13 practice was when I finished a file was to try to

14 clean up duplicates and send the file to the

15 warehouse.

16 BY MR. SWAMINATHAN:

17 Q. Okay. And after --

18 A. I'm not --

19 Q. -- how -- oh, go ahead. Go ahead.

20 A. I'm not saying it's everybody's practice. I

21 -- I know the files were closed out and sent to the

22 warehouse. But my practice was to do that right after

23 trial was complete.

24 Q. And how often as a prosecutor did you go back

25 and request those files out of storage that you'd

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1 previously worked on and pull documents and police

2 reports out of those files?

3 MS. CARNEY: Objection. Form.

4 THE WITNESS: I don't -- really don't

5 understand the -- the premise of the question. If

6 -- if the case was reversed and it was back on --

7 on -- on appeal to be tried again, obviously I'd

8 order up the -- the -- the original trial file. Or

9 if a new suspect who had not been charged before

10 was then charged, then I would order that file

11 back. Those would be the instances where I would

12 ask for my file to be returned to me.

13 BY MR. SWAMINATHAN:

14 Q. Okay. So for the most part, once you'd pack

15 the file up and it went to storage, you wouldn't request

16 to get that file back, correct?

17 MS. CARNEY: Objection. Misstates his

18 testimony.

19 THE WITNESS: There were -- there are -- would

20 be occasions when I would ask for it to come back.

21 And I just described those to you. There's -- you

22 know, my -- my file -- my practices of -- of

23 packaging up and sending back is -- I think most

24 prosecutors would send their files to the

25 warehouse. I -- I'm not saying they were sent back

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1 to the warehouse in the same format that I sent

2 mine back, but that -- other than the reasons I

3 gave to you before of reordering a file, I don't

4 think I would reorder a file just to look at a

5 police report.

6 BY MR. SWAMINATHAN:

7 Q. Okay. So in how many instances did you

8 request a file from storage and then pull out police

9 reports from that file before putting it back?

10 MS. CARNEY: Objection.

11 MS. GOLDEN: Object to form.

12 MS. CARNEY: Form.

13 THE WITNESS: I -- I -- I don't have enough

14 information to answer that. If -- if a case was

15 back for a retrial, I'd pull all the reports out.

16 Or all the pertinent ones. If it was a -- a -- a

17 newly charged co-defendant, the same thing. How

18 many times? I -- I couldn't tell you how many times

19 that happened. Not -- I mean, retrials, sadly, I've

20 had a few cases reversed that I had go to trial --

21 had -- had a retry. But it wasn't like I just said,

22 "hey, I'd love to read the police report on the

23 Jones case. It's been a couple of years now. I'm

24 going to go down memory lane." I wouldn't be -- I

25 -- I personally wouldn't be doing that.

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1 BY MR. SWAMINATHAN:

2 Q. In cases that didn't involve somebody being

3 recharged or being retried, how many times did you pull

4 out -- did you call back the old file from storage?

5 A. I'm -- I'm -- what I'm trying to say to you is

6 I don't have a reason to call back a file from storage.

7 Q. So the answer is never. You never called back

8 a file from storage unless it was going to be the

9 subject of a retrial or recharges, correct?

10 MS. CARNEY: First of all, he wasn't done

11 answering. I know. I get it. You're going fast,

12 but his cadence is significantly slower, so --

13 BY MR. SWAMINATHAN:

14 Q. Go ahead. Yeah.

15 MS. CARNEY: -- object to that extent he

16 wasn't done, but also objection. Misstates his

17 testimony. Go ahead.

18 THE WITNESS: Well, you're -- you're -- you

19 know, I guess hypothetically trying to provide is a

20 -- a -- a situation where I would grab an old

21 police report for -- for fun or something. I don't

22 understand why I would -- why I --

23 BY MR. SWAMINATHAN:

24 Q. Yeah. Let me start over. Yeah. Let me --

25 MS. GOLDEN: No. No. You're interrupting



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1 him. You can't -- please don't interrupt him.  
 2 MR. SWAMINATHAN: He just asked me. That's  
 3 why I'm responding.  
 4 MS. GOLDEN: No, he didn't ask you. He said  
 5 he didn't understand why, and then you cut him off.  
 6 MR. SWAMINATHAN: No, he said, "is that what  
 7 you're asking?" He said --  
 8 MS. GOLDEN: And then you went on and then you  
 9 cut him off.  
 10 MR. SWAMINATHAN: -- not an answer.

11 BY MR. SWAMINATHAN:

12 Q. All right. Mr. Murray, you explained to me  
 13 that a scenario in which you would go back to get copies  
 14 of trial files that you've put into storage is where  
 15 there's going to be a retrial of that individual or  
 16 charges against another individual related to the same  
 17 case, correct?

18 A. And I guess the more I think about it,  
 19 possibly if that defendant is -- there's a warrant out  
 20 and he's charged on a new case, then maybe I'd want that  
 21 file for background as well. Those are possible  
 22 examples why I might reorder the file. But if there's  
 23 not a legal process in court, a -- a motion with newly  
 24 discovered evidence perhaps, or -- I'm trying to think  
 25 of other reasons. But that's -- I can't think of other

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1 reasons why I would reorder a file.

2 Q. Okay. And so how often was it the case  
 3 approximately that you were having -- and I'm talking  
 4 about as a percentage. What percentage of the time  
 5 would you pack a case up for storage and then find that  
 6 you needed to request it back because there was some  
 7 retrial or new charges?

8 A. Well, as I said, I've had a -- a few  
 9 reversals, so there'd be a handful of cases there. A  
 10 -- some sort of newly discovered evidence or post-  
 11 conviction petition filed. I've -- I've definitely had  
 12 a few of those. Or a scenario where maybe the defendant  
 13 was implicated in another crime, I might order those up.  
 14 It's not a lot of times where I personally did that.

15 Q. Something like -- so less than 10 percent; is  
 16 that fair?

17 MS. CARNEY: Objection. Form.

18 THE WITNESS: I -- I -- I can't put a number  
 19 on it.

20 BY MR. SWAMINATHAN:

21 Q. Is it possibly as much as 50 percent of the  
 22 time?

23 A. I don't think it's that high.

24 Q. Is it as high as 25 percent of the time?

25 A. See, now -- now I'd have to go back and see

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1 how many cases I actually tried and then put the file  
 2 away. And I -- and I -- I would have difficulty doing  
 3 that.

4 Q. Do you think it could be less than 10 percent  
 5 of the time?

6 A. I can't -- I can't answer your question.

7 Q. Okay. It could be more or less than  
 8 10 percent; is that fair?

9 A. It could be more or less than 90 percent. I  
 10 can't answer that question.

11 Q. So you're saying it could be -- you know, from  
 12 your experience, it could be as much as 90 percent of  
 13 the time you had to reorder the file?

14 MS. GOLDEN: Form.

15 MS. CARNEY: Objection. Form. Misstates his  
 16 testimony.

17 THE WITNESS: I guess I'm trying to impress  
 18 upon you that I don't know what the number would  
 19 be.

20 BY MR. SWAMINATHAN:

21 Q. Okay. Okay. And you think it's possible  
 22 that, from your career, as often as -- strike that. You  
 23 just told me -- the reason I'm confused is you told me a  
 24 moment ago you don't think it's as much as 50 percent of  
 25 the time, and then you just told me that it could be as

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1 much as 90 percent of the time. That's why I'm  
 2 confused.

3 A. Well, I was doing that to point out to you  
 4 that I don't have a number for you.

5 Q. Okay. So to be clear, you -- it's not  
 6 anywhere near 90 percent of the time, fair?

7 MS. CARNEY: Objection. Form. Asked and  
 8 answered.

9 THE WITNESS: I -- I don't think it's 90  
 10 percent. But, again, I cannot put a percentage on  
 11 it for you.

12 BY MR. SWAMINATHAN:

13 Q. Okay. And in the cases where there is not  
 14 some retrial or new charges, you had -- you would not go  
 15 on your own to obtain copies of files from storage  
 16 unless there was some legal process that was going on in  
 17 that case, correct?

18 MS. GOLDEN: Form.

19 THE WITNESS: Going on with my prosecution of  
 20 the -- of the defendant in that case, those are the  
 21 reasons I stated to you. But, you know, there's --  
 22 there's other reasons why a file could be  
 23 reordered. There could be other witnesses on that  
 24 case who may be implicated in other crimes. There  
 25 could be witnesses in that case who are now



<p style="text-align: right;">Page 214</p> <p>1 involved in other crimes. There could be other</p> <p>2 reasons why, not me but other prosecutors, might've</p> <p>3 sought that file as well.</p> <p>4 <b>Q. When you would reorder --</b></p> <p>5 MS. CARNEY: Hold on. He wasn't done.</p> <p>6 BY MR. SWAMINATHAN:</p> <p>7 <b>Q. Oh, I'm sorry. Go ahead.</b></p> <p>8 A. I was going to say I'm giving you examples</p> <p>9 where -- discussing with you when the instances that I</p> <p>10 can think of why I personally would reorder a file. But</p> <p>11 there could be reasons why other prosecutors would be</p> <p>12 seeking that original trial file for use in other -- you</p> <p>13 know, unrelated to my defendant, unrelated to his case,</p> <p>14 but possibly other people involved in the case.</p> <p>15 <b>Q. When you would call a file back from storage</b></p> <p>16 <b>because there was some retrial or other legal</b></p> <p>17 <b>proceeding, would you pull police reports out of that</b></p> <p>18 <b>file so that they were no longer available as part of</b></p> <p>19 <b>that trial file?</b></p> <p>20 MS. GOLDEN: Objection.</p> <p>21 MS. CARNEY: Object to form. Incomplete</p> <p>22 hypothetical.</p> <p>23 MS. GOLDEN: Form.</p> <p>24 THE WITNESS: I would keep the file in my</p> <p>25 office and use whatever reports from that file that</p>	<p style="text-align: right;">Page 216</p> <p>1 <b>Q. In your practice, when you had a case that you</b></p> <p>2 <b>called back -- strike that. When you had a file that</b></p> <p>3 <b>you called back, did you follow the same practices you</b></p> <p>4 <b>followed when it -- when you first worked on the case,</b></p> <p>5 <b>which was to make sure you kept a copy of all the police</b></p> <p>6 <b>reports before you packed it back up and sent it back to</b></p> <p>7 <b>storage again?</b></p> <p>8 A. I certainly tried to include everything that I</p> <p>9 then used in the new proceedings when I sent it back.</p> <p>10 But as I've said to you before, what happens at the</p> <p>11 warehouse is a completely different matter. And I'm</p> <p>12 certainly not speaking for other prosecutors' practices.</p> <p>13 I know they try to package up their files too, but I've</p> <p>14 had too many examples of files getting lost or even</p> <p>15 decimated in the warehouse. And, frankly, I don't know</p> <p>16 how that happens. But that warehouse is - - warehouses,</p> <p>17 plural, is almost like the closing scene in Indiana</p> <p>18 Jones in Raiders of the Lost Ark. It's not good.</p> <p>19 <b>Q. Putting aside the question of files that are</b></p> <p>20 <b>getting decimated or completely lost, are you aware of</b></p> <p>21 <b>instances in which individuals in the warehouse were</b></p> <p>22 <b>pulling specific police reports out of the files to</b></p> <p>23 <b>remove them from those trial files?</b></p> <p>24 MS. CARNEY: Objection.</p> <p>25 MS. GOLDEN: Form.</p>
<p style="text-align: right;">Page 215</p> <p>1 I needed to use.</p> <p>2 BY MR. SWAMINATHAN:</p> <p>3 <b>Q. And would you tender -- if you tender</b></p> <p>4 <b>documents to the defense, would you make copies of those</b></p> <p>5 <b>police documents?</b></p> <p>6 MS. CARNEY: Objection. Form. Incomplete</p> <p>7 hypothetical.</p> <p>8 THE WITNESS: If for some reason I called back</p> <p>9 my file and had to make -- and had to provide new</p> <p>10 discovery or old discovery to defense counsel, I</p> <p>11 would make a copy for them.</p> <p>12 BY MR. SWAMINATHAN:</p> <p>13 <b>Q. And would you throw away or discard documents</b></p> <p>14 <b>from the police file that were not duplicates during</b></p> <p>15 <b>that retrial or retrial process?</b></p> <p>16 MS. CARNEY: Objection. Form. Incomplete</p> <p>17 hypothetical.</p> <p>18 THE WITNESS: Well, I -- I'm trying to</p> <p>19 maintain all the -- the -- the -- the reports that</p> <p>20 I collected for use at trial or now in this new</p> <p>21 legal process. Personally, I -- I try to keep my</p> <p>22 files complete, but I know from personal experience</p> <p>23 that that wasn't necessarily true when a file went</p> <p>24 to the warehouse.</p> <p>25 BY MR. SWAMINATHAN:</p>	<p style="text-align: right;">Page 217</p> <p>1 MS. CARNEY: Foundation.</p> <p>2 THE WITNESS: If -- if I go back to the first</p> <p>3 part of your question, these files are getting</p> <p>4 decimated for reasons that I don't know. So if</p> <p>5 you're asking me, "did a" -- "did a warehouse</p> <p>6 employee pull files out and trash them?" I don't</p> <p>7 know. But I don't know why the files were so</p> <p>8 trashed.</p> <p>9 BY MR. SWAMINATHAN:</p> <p>10 <b>Q. Are you aware of any instances in which anyone</b></p> <p>11 <b>in the warehouse was ever disciplined for pulling</b></p> <p>12 <b>specific police reports out of files?</b></p> <p>13 MS. CARNEY: Objection. Form. Foundation.</p> <p>14 THE WITNESS: Not -- not that I'm aware of.</p> <p>15 But, again, I -- I -- I don't know. And I don't</p> <p>16 think other people know necessarily with certainty</p> <p>17 why the files were so -- kept so poorly at the</p> <p>18 warehouse as well. Maybe we should have been</p> <p>19 routinely firing people.</p> <p>20 <b>Q. Are you aware of instances in which</b></p> <p>21 <b>prosecutors went over to the trial files at the</b></p> <p>22 <b>warehouse and would pull out individual police reports</b></p> <p>23 <b>or other police documents from those files?</b></p> <p>24 MS. GOLDEN: Form.</p> <p>25 MS. CARNEY: Foundation.</p>

<p style="text-align: right;">Page 218</p> <p>1 THE WITNESS: I know when prosecutors, myself</p> <p>2 included, go to the warehouse to look for files, we</p> <p>3 couldn't find them, or we saw somewhat infamous</p> <p>4 trials in three or four different locations.</p> <p>5 BY MR. SWAMINATHAN:</p> <p>6 Q. I -- I'm asking a different question. Are you</p> <p>7 aware of instances in which prosecutors went to the</p> <p>8 warehouse and pulled documents, like police reports, out</p> <p>9 of the trial files?</p> <p>10 MS. GOLDEN: Form.</p> <p>11 MS. CARNEY: Foundation.</p> <p>12 THE WITNESS: I -- I don't know what other</p> <p>13 prosecutors did when they went to the warehouse.</p> <p>14 BY MR. SWAMINATHAN:</p> <p>15 Q. Did you ever go to the warehouse and pull</p> <p>16 specific police reports out of a trial file?</p> <p>17 MS. GOLDEN: Form.</p> <p>18 THE WITNESS: On the occasions that I went to</p> <p>19 the warehouse, I was looking for a file. And I was</p> <p>20 looking for the complete file. And sometimes I was</p> <p>21 successful, sometimes I was not. I was not looking</p> <p>22 to take a document out of the file personally.</p> <p>23 Personally, I was looking for a file for some other</p> <p>24 reason.</p> <p>25 BY MR. SWAMINATHAN:</p>	<p style="text-align: right;">Page 220</p> <p>1 Fields, correct?</p> <p>2 A. No.</p> <p>3 Q. And you didn't offer any opinions in the</p> <p>4 Rivera case about the percentage of prosecutor files you</p> <p>5 deemed incomplete, correct?</p> <p>6 A. I don't think -- no, I did not.</p> <p>7 Q. And what -- and then did you disclose an</p> <p>8 opinion in this case about the percentage of prosecutor</p> <p>9 files you deemed incomplete?</p> <p>10 A. No.</p> <p>11 Q. And in fact, you didn't look at the majority</p> <p>12 of prosecutor files in this case that were produced,</p> <p>13 correct?</p> <p>14 A. As I said before, I focused on the eight cases</p> <p>15 that the plaintiff's expert used, and then the Page 51</p> <p>16 documents. Those are the files that I focused on.</p> <p>17 Q. In the -- well, I was asking you about any</p> <p>18 instances of known Brady violations. In Fields, you</p> <p>19 indicated that you were aware of what the Chicago Police</p> <p>20 Department's position was about whether it had turned</p> <p>21 over the documents in its street file to the prosecution</p> <p>22 and defense, correct?</p> <p>23 MS. CARNEY: Objection. Form.</p> <p>24 THE WITNESS: I -- I was aware of -- of -- of</p> <p>25 the allegations that those reports were not</p>
<p style="text-align: right;">Page 219</p> <p>1 Q. Okay. And did you have instances where you</p> <p>2 would ever obtain a file back from the warehouse that</p> <p>3 had been in storage and then pull specific police</p> <p>4 reports or other documents from the police department</p> <p>5 out of those files before sending them back to storage?</p> <p>6 MS. GOLDEN: Form.</p> <p>7 THE WITNESS: I would -- I -- when -- when I</p> <p>8 would take a file back in the warehouse on those</p> <p>9 occasions, I would utilize the entire file, so I</p> <p>10 would take reports out of it. And to the best of</p> <p>11 my ability, I would try to reconstitute the file</p> <p>12 before I sent it back to the warehouse.</p> <p>13 BY MR. SWAMINATHAN:</p> <p>14 Q. Okay. And -- oh. What percentage of the</p> <p>15 files did you -- strike that. In Fields, did you opine</p> <p>16 on the percentage of prosecutor files that you deemed to</p> <p>17 be incomplete?</p> <p>18 MS. CARNEY: Objection. No, sorry. Go ahead.</p> <p>19 THE WITNESS: You know, I -- I -- I -- I don't</p> <p>20 remember. I -- I know we were -- we were trying to</p> <p>21 estimate that at one point, but I don't remember</p> <p>22 what the number was.</p> <p>23 BY MR. SWAMINATHAN:</p> <p>24 Q. You didn't disclose any opinion about a</p> <p>25 percentage of prosecutor files you deemed incomplete in</p>	<p style="text-align: right;">Page 221</p> <p>1 tendered.</p> <p>2 BY MR. SWAMINATHAN:</p> <p>3 Q. Okay. And when you conducted your review --</p> <p>4 strike that. And in that case, you were not opining on</p> <p>5 that issue, correct?</p> <p>6 A. I was not.</p> <p>7 Q. Okay. And did it cause you any concern that</p> <p>8 there had -- that, in fact, CPD was admitting that it</p> <p>9 had a file in the Fields case that it had failed to</p> <p>10 disclose?</p> <p>11 MS. GOLDEN: Form and foundation.</p> <p>12 THE WITNESS: My concern was not with that</p> <p>13 file, it was with the other files, and to examine</p> <p>14 those documents.</p> <p>15 BY MR. SWAMINATHAN:</p> <p>16 Q. And do you know why it -- strike that. Did</p> <p>17 you do any investigation to understand why it was that</p> <p>18 that file in the Fields case had not been disclosed?</p> <p>19 A. I --</p> <p>20 MS. CARNEY: Objection. Form, foundation.</p> <p>21 THE WITNESS: I did not contain -- I did not</p> <p>22 conduct an investigation into the Fields case.</p> <p>23 BY MR. SWAMINATHAN:</p> <p>24 Q. And in the course of your work, did you</p> <p>25 develop an understanding of how it came to be that CPD</p>

<p style="text-align: right;">Page 222</p> <p>1 failed to turn over a file in the Fields case?</p> <p>2 A. I did not come to that understanding.</p> <p>3 Q. Okay.</p> <p>4 MS. GOLDEN: Belated objection to foundation</p> <p>5 and form.</p> <p>6 BY MR. SWAMINATHAN:</p> <p>7 Q. Okay. And then in that case, you looked at,</p> <p>8 not the Fields case, but a number of other files that</p> <p>9 had been found in the same location as the Fields file</p> <p>10 that had not been disclosed, correct?</p> <p>11 MS. CARNEY: Foundation and form.</p> <p>12 THE WITNESS: I -- I don't know exactly where</p> <p>13 they were found, but I was refuting the</p> <p>14 allegations, whether the defense counsel on those</p> <p>15 cases received the proper discovery.</p> <p>16 BY MR. SWAMINATHAN:</p> <p>17 Q. And you didn't -- when you offered those</p> <p>18 opinions, did you know one way or the other whether</p> <p>19 those other files that you were opining on had been</p> <p>20 found in the same place as the Fields file?</p> <p>21 MS. GOLDEN: Objection. Form, foundation.</p> <p>22 THE WITNESS: As I -- as I sit here now, I</p> <p>23 don't recall where they were stored.</p> <p>24 BY MR. SWAMINATHAN:</p> <p>25 Q. Okay. And as you did your review of the other</p>	<p style="text-align: right;">Page 224</p> <p>1 Q. Are you testifying that every public defender</p> <p>2 file in the Fields case was wholly incomplete?</p> <p>3 MS. CARNEY: Objection. Form, foundation.</p> <p>4 Asked and answered. Misstates his testimony. And</p> <p>5 at this point, if you're going to keep going down</p> <p>6 his testimony or his specific opinions from Fields,</p> <p>7 I'm going to ask you to put up his report or</p> <p>8 testimony that you're referring to. Obviously that</p> <p>9 report was done years ago and I was not counsel on</p> <p>10 that case. So if you're not going to show him the</p> <p>11 report, I'm not going to let him keep answering</p> <p>12 questions about it.</p> <p>13 BY MR. SWAMINATHAN:</p> <p>14 Q. I can show you the report. It's helpful, but</p> <p>15 I don't think this is an issue that's covered in your</p> <p>16 report. I think it's more a matter of the terminology</p> <p>17 you're using now, but I'm -- if you -- if the report's</p> <p>18 helpful to you, I can put it up.</p> <p>19 A. What I said to you that many of the</p> <p>20 prosecutor's files and many of the public defender's</p> <p>21 files were inadequate to -- it wasn't just missing one</p> <p>22 or two pieces of paper. They were obviously incomplete</p> <p>23 files. I'm not saying every one of those files were</p> <p>24 wholly incomplete, but there were some that were wholly</p> <p>25 incomplete. So it's very difficult to draw a -- a</p>
<p style="text-align: right;">Page 223</p> <p>1 files from that case, not the Fields file, you found a</p> <p>2 number of instances in which there were documents that</p> <p>3 were -- from the police file that were missing from both</p> <p>4 the prosecution and the defense files, correct?</p> <p>5 A. I'd have to review the report, but there was</p> <p>6 times where the reports not found in a wholly incomplete</p> <p>7 prosecutor file or wholly incomplete defense file, so</p> <p>8 yeah.</p> <p>9 Q. Yeah. And there were some time -- oh, I'm</p> <p>10 sorry. Go ahead.</p> <p>11 A. So it would not surprise me that there --</p> <p>12 there's investigative materials that were not found in</p> <p>13 those two files.</p> <p>14 Q. Are you saying now that your testimony in the</p> <p>15 Fields case was that every single prosecutor filed was</p> <p>16 wholly incomplete?</p> <p>17 A. No.</p> <p>18 MS. GOLDEN: Objection. Form. Misstates his</p> <p>19 testimony.</p> <p>20 THE WITNESS: No, I -- I'm -- I'm not saying</p> <p>21 that every file was wholly incomplete. There was --</p> <p>22 -- but many, many files, both prosecution and</p> <p>23 defense files, were obviously missing significant</p> <p>24 amounts of police reports.</p> <p>25 BY MR. SWAMINATHAN:</p>	<p style="text-align: right;">Page 225</p> <p>1 conclusion that somehow law enforcement, Chicago Police</p> <p>2 Department, withheld documents from both the prosecution</p> <p>3 and the defense when the files were in such disarray.</p> <p>4 Q. Okay. And the reason we're going down this</p> <p>5 road is because I -- you introduced the idea of the</p> <p>6 files all being wholly incomplete in response to a</p> <p>7 question of mine. So I had a quest -- I had to follow-</p> <p>8 up about that. So let me go back to my question. In</p> <p>9 that case, you found instances when there were documents</p> <p>10 that were missing from both the public defender file and</p> <p>11 the prosecutor file and are you claiming now that in</p> <p>12 every one of those instances, it was because both the</p> <p>13 homic -- the public defender file and the prosecutor</p> <p>14 files were wholly incomplete?</p> <p>15 MS. CARNEY: Objection. Form. And I'm -- at</p> <p>16 this -- again, going to ask if you're going to ask</p> <p>17 him questions about the specific opinions from his</p> <p>18 report, that you put up the report and give him a</p> <p>19 chance to review it or take a look at it because --</p> <p>20 BY MR. SWAMINATHAN:</p> <p>21 Q. I'm happy to put it up. Would that be helpful</p> <p>22 to you, Mr. Murray?</p> <p>23 A. Well -- well, I -- if you're getting any more</p> <p>24 questions on this topic, yes, but I -- I'm not saying</p> <p>25 just because -- I'm not -- you -- I -- I'm let me back</p>

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1 off on wholly incomplete. There was definitely files  
2 that were wholly incomplete, but as I said a minute ago,  
3 there were many files that were inadequate to a nature  
4 where you could not say that the prosecution and the  
5 plaintiff -- prosecution and the, I'm sorry, the defense  
6 attorney never had the Chicago Police Department  
7 reports.

8 Q. What -- do you know what the ultimate outcome  
9 at trial was of the Fields case in which you offered an  
10 opinion?

11 A. He recovered money from the city and -- and  
12 other defendants.

13 Q. And do you know if the jury reached a finding  
14 on whether or not -- strike that. Do you know whether  
15 the jury reached a finding on claims against the City of  
16 Chicago for maintaining unconstitutional policy and  
17 practices?

18 A. I don't know.

19 MS. GOLDEN: Objection. Foundation.

20 THE WITNESS: I don't know.

21 BY MR. SWAMINATHAN:

22 Q. All right. So sitting here today, you're --  
23 you don't -- you do -- strike that. Sitting here today,  
24 you're not aware of whether the jury found that the City  
25 of Chicago had an unconstitutional policy or practice of

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1 Brady non-disclosure?

2 A. I know that they re -- re -- recovered a  
3 significant amount of money. That's all I focused on.

4 Q. Okay. And in the Jacques Rivera case, you  
5 offered an opinion in that case, correct?

6 A. Yes, sir.

7 Q. And do you know what the outcome of that case  
8 was?

9 A. Mr. Rivera also recovered money from the city.

10 Q. And do you know if the jury found that a Brady  
11 violation had occurred in Mr. Rivera's case?

12 A. I do not, no.

13 Q. And do you know if the jury found that the  
14 City of Chicago had maintained unconstitutional policy  
15 or practice of withholding Brady information?

16 A. I do not know. Other than the substantial  
17 amount of money they rewarded to Mr. Rivera.

18 Q. Okay. Would it surprise you to learn that in  
19 both of those cases the jury disagreed with you about  
20 whether or not the City of Chicago had a systemic  
21 problem with failing to disclose information in police  
22 files to prosecutors and criminal defendants?

23 MS. CARNEY: Objection. Form, foundation.

24 THE WITNESS: Well, are they disagreeing  
25 specifically with me or -- I mean, do they say we

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1 disagree with Mr. Murray or was there other  
2 reasons?

3 BY MR. SWAMINATHAN:

4 Q. You tell me. Did you do any information --  
5 did you do any work to figure out what the reason was  
6 for the jury's determination?

7 MS. CARNEY: Objection. Form, foundation.

8 THE WITNESS: I did -- I did not conduct a --  
9 a study into the jurors or ask them if it was why  
10 they vote -- both the verdicts they voted.

11 BY MR. SWAMINATHAN:

12 Q. Were you curious about what the evidence was  
13 that resulted in the jury reaching the conclusions that  
14 it did in light of your testimony in the case?

15 A. I provided my expert report for their  
16 consideration, what -- what other evidence they  
17 considered both from the plaintiff's attorneys and also  
18 from defense attorneys to come to their decision, I  
19 don't know all that information. So I -- I'm not going  
20 to opine on why they voted one way or the other.

21 Q. Were you curious at any point during the --  
22 during -- after you learned about the result in the  
23 Rivera case or the Fields case about what all that  
24 underlying evidence was that resulted in the verdicts in  
25 those cases?

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1 MS. CARNEY: Objection. Form, foundation.

2 THE WITNESS: My curiosity didn't go to that  
3 level.

4 BY MR. SWAMINATHAN:

5 Q. Okay. And when you learned that there had --  
6 strike that. When you found out that the City of  
7 Chicago was admitting that it had a file that it had  
8 failed to disclose to prosecutors or to the defense in  
9 Mr. Fields's case, did that bother you as a prosecutor  
10 that that had happened?

11 MS. CARNEY: Objection. Form, foundation.

12 THE WITNESS: I -- I -- I didn't know all the  
13 circumstances on -- on how they came to not tender  
14 the report or admit they didn't tender the report.  
15 So obviously I want all investigative material  
16 provided to defense counsel in every case.

17 BY MR. SWAMINATHAN:

18 Q. Your opinions in this case, you understand,  
19 involved the case in which one of the defendants is  
20 Reynaldo Guevara, correct?

21 A. One of the detectives, yes.

22 Q. And do you have any knowledge or information  
23 about Mr. Reynaldo Guevara's history in the Chicago  
24 Police Department?

25 MS. CARNEY: Objection. Form.



<p style="text-align: right;">Page 230</p> <p>1 THE WITNESS: I don't know what you mean by</p> <p>2 knowledge or information about him.</p> <p>3 BY MR. SWAMINATHAN:</p> <p>4 Q. In other words, are you -- do you have any</p> <p>5 knowledge about allegations of misconduct against</p> <p>6 Reynaldo Guevara?</p> <p>7 A. From what I've read in the in -- in news media</p> <p>8 reports.</p> <p>9 Q. And what have you learned -- what do you know</p> <p>10 about Mr. Guevara from news media reports?</p> <p>11 A. Well, I -- I know that there are now</p> <p>12 situations where he's exercising his Fifth Amendment</p> <p>13 right not to answer questions. And in cases where this</p> <p>14 -- in a number of cases, the Cook County State's</p> <p>15 Attorney's Office has decided not to proceed further</p> <p>16 with the case.</p> <p>17 MS. GOLDEN: I'm sorry.</p> <p>18 THE WITNESS: Oh, I'm sorry. Go ahead.</p> <p>19 MS. GOLDEN: I'm sorry. My microphone was off</p> <p>20 and I have a belated -- I'm sorry, a belated</p> <p>21 objection to form of the last question.</p> <p>22 BY MR. SWAMINATHAN:</p> <p>23 Q. And do you have an opinion about the</p> <p>24 prosecutor's office's decision not to challenge some of</p> <p>25 those cases?</p>	<p style="text-align: right;">Page 232</p> <p>1 Q. Do you have any knowledge about allegations</p> <p>2 that Detective Guevara was withholding evidence of</p> <p>3 innocence from criminal defendants as part of his</p> <p>4 conduct in his homicide investigations?</p> <p>5 A. I don't --</p> <p>6 MS. GOLDEN: Form.</p> <p>7 THE WITNESS: I don't have knowledge of that.</p> <p>8 BY MR. SWAMINATHAN:</p> <p>9 Q. In other words, do you have any knowledge</p> <p>10 about what the allegations are against Detective Guevara</p> <p>11 in this case and others?</p> <p>12 A. No.</p> <p>13 Q. Okay. And if Detective Guevara has pled the</p> <p>14 Fifth about whether or not he withheld Brady information</p> <p>15 from prosecutors and defendants in this case in many</p> <p>16 other cases, would that matter to you?</p> <p>17 MS. CARNEY: Objection. Form, foundation.</p> <p>18 THE WITNESS: It doesn't matter to my analysis</p> <p>19 of whether material was provided from the</p> <p>20 prosecution to defense attorneys.</p> <p>21 BY MR. SWAMINATHAN:</p> <p>22 Q. Does it have any impact on your opinions about</p> <p>23 whether information is getting from the police</p> <p>24 department to the prosecutors?</p> <p>25 MS. CARNEY: Object to form.</p>
<p style="text-align: right;">Page 231</p> <p>1 A. Do I have an opinion about that? Well, as</p> <p>2 always, I -- I'd like to know what other evidence was</p> <p>3 remaining. Could the prosecution still go forward with</p> <p>4 the case?</p> <p>5 Q. Did you do some work to find out the answer to</p> <p>6 that question?</p> <p>7 A. I did not.</p> <p>8 MS. CARNEY: Objection. Form.</p> <p>9 BY MR. SWAMINATHAN:</p> <p>10 Q. Do you know whether -- you indicated that you</p> <p>11 had some information from media reports that Mr. Guevara</p> <p>12 was pleading the Fifth. Do you know if he plead -- he</p> <p>13 was pleading the Fifth with regard to his actions in the</p> <p>14 Soto homicide investigation that's a subject of this</p> <p>15 litigation?</p> <p>16 A. I'm not aware of whether it is or isn't.</p> <p>17 Q. Okay. And do you have any knowledge about</p> <p>18 whether how many of the investigative files that were</p> <p>19 produced in this case and are the subject of your expert</p> <p>20 report involved Detective Guevara?</p> <p>21 A. I do not know.</p> <p>22 Q. Did you do any analysis of the files to see</p> <p>23 how often Detective Guevara was part of these underlying</p> <p>24 homicide investigations that you reviewed?</p> <p>25 A. I did not.</p>	<p style="text-align: right;">Page 233</p> <p>1 MS. GOLDEN: Form and foundation.</p> <p>2 THE WITNESS: Well, I can -- part of my</p> <p>3 examination was to look at reports that the</p> <p>4 prosecutors had in their file also to look at the</p> <p>5 investigative reports and the other RD reports and</p> <p>6 to the extent that there's a public defender file</p> <p>7 to see if those documents are included in there.</p> <p>8 So I'm concerned about that.</p> <p>9 BY MR. SWAMINATHAN:</p> <p>10 Q. And if Detective Guevara has pleaded the Fifth</p> <p>11 about whether he withheld information from prosecutors</p> <p>12 and criminal defendants in numerous cases, would that</p> <p>13 have any bearing on your opinions?</p> <p>14 MS. CARNEY: Objection. Form.</p> <p>15 MS. GOLDEN: Foundation. You can answer it.</p> <p>16 THE WITNESS: My -- my analysis whether other</p> <p>17 of the -- of the compliance with discovery would</p> <p>18 remain the same.</p> <p>19 BY MR. SWAMINATHAN:</p> <p>20 Q. If Detective Guevara has pleaded the Fifth</p> <p>21 with regard to whether he failed to even document</p> <p>22 important exculpatory information that he learned, could</p> <p>23 that have some bearing on your opinions in this case?</p> <p>24 MS. CARNEY: Objection. Form, foundation.</p> <p>25 THE WITNESS: I -- the -- I don't know why he</p>



<p style="text-align: right;">Page 234</p> <p>1 is taking the Fifth, so I don't know if it pertains</p> <p>2 to that or not. So it really would not have any</p> <p>3 bearing on my case.</p> <p>4 BY MR. SWAMINATHAN:</p> <p>5 Q. If Detective Guevara failed to document</p> <p>6 exculpatory information that he learned during the</p> <p>7 course of his investigation, that could result in Brady</p> <p>8 violations that, as a prosecutor, you'd never know</p> <p>9 about, correct?</p> <p>10 MS. CARNEY: Objection. Form -- incomplete</p> <p>11 hypothetical. You can answer that.</p> <p>12 THE WITNESS: Well, I think I've said before</p> <p>13 that, if -- if there's no way for me to discern</p> <p>14 from the reports that part of invest -- an</p> <p>15 interview was ever cur -- was ever conducted and</p> <p>16 not submitted into the investigative file. There's</p> <p>17 no way I would know that that interview took place.</p> <p>18 BY MR. SWAMINATHAN:</p> <p>19 Q. Michael Brassfield -- I'm changing topics</p> <p>20 here. Michael Brassfield looked at the investigative</p> <p>21 file, standing alone to see whether the investigative</p> <p>22 files complied with the Chicago Police Department's</p> <p>23 special orders. You recall that from his report,</p> <p>24 correct?</p> <p>25 A. I do.</p>	<p style="text-align: right;">Page 236</p> <p>1 A. I think he did that. I'm -- I'm trying to</p> <p>2 understand your question.</p> <p>3 Q. And it was he did something very similar to</p> <p>4 Mr. Brassfield, which is he looked at the investigative</p> <p>5 file, standing alone, to see if the special orders and</p> <p>6 general orders about inventories and GPRs and to/from</p> <p>7 memos were being followed, correct?</p> <p>8 A. I'm sure he did that. I didn't focus on that.</p> <p>9 Q. Okay. And when you say you didn't focus on</p> <p>10 that, you didn't offer any opinions on that same issue;</p> <p>11 is that fair?</p> <p>12 A. Yes, it is fair.</p> <p>13 Q. Okay. And so ultimately you didn't audit his</p> <p>14 numbers around his findings about the percentage of time</p> <p>15 that particular types of documents were missing from</p> <p>16 those investigative files, correct?</p> <p>17 A. I did not.</p> <p>18 Q. Okay. And did you conduct any kind of</p> <p>19 comparison between permanent retention files and</p> <p>20 investigative files?</p> <p>21 A. No.</p> <p>22 Q. Okay. Okay. I want to ask you what some of</p> <p>23 the file comparisons you did. Let me pull up your</p> <p>24 report here. All right. I'm showing you a document I</p> <p>25 have marked as Exhibit 1. This is your expert report,</p>
<p style="text-align: right;">Page 235</p> <p>1 Q. Okay. And in your work, you did not conduct</p> <p>2 an audit or review of Mr. Tiderington -- strike that.</p> <p>3 Mr. Tiderington did the same thing in this case,</p> <p>4 correct? I think it might've said Brassfield. Mr. --</p> <p>5 strike. So let me ask it again. Sorry.</p> <p>6 MS. CARNEY: Yeah. You did say Brassfield.</p> <p>7 BY MR. SWAMINATHAN:</p> <p>8 Q. Yeah. Let me ask again. Sorry. Thanks for</p> <p>9 that, Carrie. Mr. Tiderington in this case is standing</p> <p>10 alone to see if they --</p> <p>11 THE REPORTER: You're cutting out. Everyone</p> <p>12 cut out.</p> <p>13 MS. CARNEY: Yeah, I can hear you.</p> <p>14 THE REPORTER: Okay.</p> <p>15 MR. SWAMINATHAN: Oh, Emilia, can you hear me?</p> <p>16 THE REPORTER: Now I can hear you. I didn't</p> <p>17 hear your last question.</p> <p>18 BY MR. SWAMINATHAN:</p> <p>19 Q. Okay. No, I'll ask it again. I think I was</p> <p>20 asking a poor question. You probably saved me from</p> <p>21 myself. Okay. Mr. Murray, in this case, Mr.</p> <p>22 Tiderington reviewed the investigative file -- files</p> <p>23 standing alone to see if they contained evidence of</p> <p>24 whether there's -- the general orders and special orders</p> <p>25 are being followed, correct?</p>	<p style="text-align: right;">Page 237</p> <p>1 correct?</p> <p>2 A. I see it, yes.</p> <p>3 Q. Okay. Let's turn to -- toward the back of</p> <p>4 your report, you discussed a case called People v. Oscar</p> <p>5 Soto. Do you see that?</p> <p>6 A. Give me one second. I'll get to it. Yeah, I</p> <p>7 have it in front of me now.</p> <p>8 Q. Okay. And so for the Soto case, we looked at</p> <p>9 your materials reviewed before, but for that case, you</p> <p>10 were provided with a copy of not only the police</p> <p>11 investigative file and RD file, but you're also provided</p> <p>12 with the State's attorney file and the public defender</p> <p>13 file, correct?</p> <p>14 A. I think that's accurate, yes.</p> <p>15 Q. Okay. Do you want to take a minute to look at</p> <p>16 your materials reviewed?</p> <p>17 A. I am -- I'm looking at the -- what I wrote in</p> <p>18 the report.</p> <p>19 Q. Okay. Just -- tell me when you're ready for</p> <p>20 the next question. You can go ahead and read that whole</p> <p>21 section and then just tell me when you're done so that</p> <p>22 before I ask you my next question.</p> <p>23 A. Okay. I will. Okay. I -- I'm -- I've</p> <p>24 reviewed the four points I made.</p> <p>25 Q. Okay. So having had a chance to review your</p>

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1 report, do you agree with me you were provided with a  
 2 copy of the police investigative file and RD file as  
 3 well as the prosecutor file and defense file for the  
 4 People v. Oscar Soto case?  
 5 A. Yes, sir. And reviewed it.  
 6 Q. Okay. And you conducted an analysis and  
 7 comparison of those files, correct?  
 8 A. Yes, I did.  
 9 Q. Okay. And did you review the public defender  
 10 file as part of that analysis?  
 11 A. I did.  
 12 Q. And did you review the state's attorney file  
 13 as part of that analysis?  
 14 A. I'm sure I did.  
 15 Q. Okay.  
 16 A. My report, I'm more focused on the public  
 17 defender's file, but yes, I'm sure I looked at all of  
 18 them.  
 19 Q. Okay. And when you looked at the public  
 20 defender file, you looked at the entirety of the file,  
 21 correct?  
 22 A. Yes.  
 23 Q. And when you looked at the state's attorney  
 24 file, you looked at the entirety of that file too,  
 25 correct?

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1 A. I'm sure I did, but again, my -- in the  
 2 report, I'm focusing on -- on the public defender's  
 3 file.  
 4 Q. Okay. And when you conducted the review of  
 5 the file, did you reach any conclusions about whether  
 6 the investigative file was complete or incomplete?  
 7 A. No, my -- my focus was on how incomplete the  
 8 public defender's file is. So it'd be very difficult to  
 9 claim that police reports were not provided to the  
 10 public defenders when -- with the state of their  
 11 existing file.  
 12 Q. Did you conduct -- strike that. Did you form  
 13 any opinions about whether the state's attorney file was  
 14 complete or incomplete?  
 15 A. Not that I noted in my report.  
 16 Q. Okay. And so when you reviewed the state's  
 17 attorney file, you didn't look at the file and go, "This  
 18 is obviously an incomplete file," correct?  
 19 A. I -- I may have, but I didn't note it in my  
 20 report.  
 21 Q. Did you note it somewhere?  
 22 A. I not -- no, if I didn't note it in my report,  
 23 I didn't note it anywhere.  
 24 Q. Okay. All right. So it is when -- it's not  
 25 like when you reviewed that file, you said, "a-ha, this

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1 public" - "this prosecutor file is clearly incomplete,"  
 2 is that fair?  
 3 A. No, I -- again, the allegation is that the  
 4 public defender didn't receive these materials. So my  
 5 initial focus was on their file.  
 6 Q. Okay. And when you looked at the public  
 7 defender file, you concluded that file -- strike that.  
 8 So you reviewed the public defender file in its entirety  
 9 and concluded that that file was incomplete, correct?  
 10 A. Yeah. I believe when you whittle down  
 11 redacted pages and -- and -- and photos and all that,  
 12 you get the 33 pages. I mean, included in the -- in the  
 13 remaining pages are defense counsel subpoenas. So it  
 14 leaves -- leaves about basically 25 pages of police  
 15 reports whereas the Chicago Police Department files  
 16 contain 158 pages, including the nine pages of GPRs that  
 17 the plaintiff's expert claims were missing from the  
 18 public defender's file.  
 19 Q. And so I think the answer to my question is  
 20 yes, right? When you reviewed the public defender file  
 21 in its entirety, you concluded that it was incomplete,  
 22 correct?  
 23 A. Yes, it is incomplete.  
 24 Q. Okay. And when you reviewed the state  
 25 attorney file in its entirety, you didn't reach any

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1 conclusion that file was incomplete, correct?  
 2 A. No, I did not.  
 3 Q. Okay. No, I did not, meaning that's correct;  
 4 is that right?  
 5 A. It means I didn't reach a conclusion whether  
 6 it was complete or not.  
 7 Q. Okay. And when you --  
 8 A. Let me answer him further. I may have  
 9 observed that it was complete or not complete, but when  
 10 -- when I got to the public defender's file being so  
 11 lacking, my analysis kind of ended there.  
 12 Q. Okay. Now, when you looked at those files,  
 13 what did you find in terms of whether the investigative  
 14 file materials were contained in the state's attorney  
 15 file?  
 16 A. As I just said, when I saw how poorly  
 17 maintained the public defender's file was, I reached a  
 18 conclusion that it would be impossible for us to  
 19 determine whether they had received all the police  
 20 depart -- department reports based upon the allegation  
 21 of Plaintiff's expert.  
 22 Q. So and --  
 23 A. So my -- my point is that the -- the  
 24 plaintiff's expert is claiming that these are documents  
 25 that weren't pro -- example of documents not provided to

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1 the defense counsel when we -- we can't tell that from  
 2 the 25 pages versus 158 pages of the police file.  
 3 **Q. Did you find that there was any**  
 4 **investigative --**  
 5 A. My focus --  
 6 **Q. Oh, I'm sorry, go ahead.**  
 7 A. I apologize. My -- once I saw how incomplete  
 8 the public defender's file was, the -- the allegation  
 9 that the police or the prosecutors didn't provide  
 10 everything that was in the police file is -- is -- is  
 11 impossible to verify. They've got 25 pages remaining  
 12 when the original -- I mean, the police reports are  
 13 158 pages. It's impossible to determine whether the  
 14 prosecutor's file was complete back at the time of trial  
 15 and tendered everything or that the police tendered  
 16 everything when you can't verify what the public  
 17 defenders had during the time they're preparing for  
 18 trial.  
 19 **Q. Did you find that the investigative file**  
 20 **materials were all contained in the state's attorney**  
 21 **file?**  
 22 MS. CARNEY: Objection. Asked and answered.  
 23 THE WITNESS: Yeah. And -- and again, I -- I  
 24 don't recall off the top of my head because I  
 25 stopped at point number one under Soto.

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1 BY MR. SWAMINATHAN:  
 2 **Q. Did you find any instances in which the**  
 3 **investigative file was information -- well, strike that.**  
 4 **Did you find any instances in which the investigative**  
 5 **file information was missing from the state's attorney**  
 6 **file in whatever level of review you did conduct of the**  
 7 **prosecutor file?**  
 8 MS. CARNEY: Objection.  
 9 THE WITNESS: Yep. You know --  
 10 MS. CARNEY: Form.  
 11 THE WITNESS: I -- the allegation here is that  
 12 the public defender was not provided these  
 13 documents either from the police or from the  
 14 prosecutor. So when their file is so inadequate,  
 15 the analysis of -- of what was in a potentially  
 16 incomplete prosecutor's file is irrelevant.  
 17 BY MR. SWAMINATHAN:  
 18 **Q. Would it matter to you if the prosecution**  
 19 **didn't get a copy of a number of these documents in the**  
 20 **police file?**  
 21 MS. CARNEY: Objection. Form, foundation,  
 22 incomplete hypothetical.  
 23 THE WITNESS: Again, this is Plaintiff's  
 24 expert claiming that the public defender didn't get  
 25 these police reports.

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1 BY MR. SWAMINATHAN:  
 2 **Q. I'm asking you a different question, sir.**  
 3 A. But -- but --  
 4 **Q. Focus on my question, please. Let me ask it**  
 5 **and then you can answer.**  
 6 MS. CARNEY: Hold on. He wasn't done  
 7 answering so you can re-ask it, but just let him  
 8 finish answering what he was saying. I know you  
 9 don't like -- I know you don't agree that he's  
 10 answering your question, but he --  
 11 MR. SWAMINATHAN: Yeah. Okay. Go -- yeah. Go  
 12 ahead. Go ahead.  
 13 MS. CARNEY: You can re-ask it. Just let him  
 14 finish. Were you done?  
 15 MR. SWAMINATHAN: Go ahead.  
 16 MS. CARNEY: After all that?  
 17 THE WITNESS: No. Go ahead and re-ask it. Go  
 18 ahead.  
 19 MS. CARNEY: Okay. Try again, Anand.  
 20 BY MR. SWAMINATHAN:  
 21 **Q. Yeah. If there were investigative file**  
 22 **documents that were not contained in the prosecutor**  
 23 **file, would you want to know that?**  
 24 A. If the prosecutor's file is incomplete today  
 25 as we look at it, I -- I don't know what they had back

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1 at the time that they received information from the  
 2 police. But I think the focus is rightfully here is  
 3 what the plaintiff's expert is claiming. He's saying  
 4 that the public defender did not receive these documents  
 5 from the police and we cannot make that determination  
 6 based upon the approximately 25 police page -- police  
 7 report pages in their file today.  
 8 **Q. Did you find -- did you disclose any findings**  
 9 **about what was contained in the prosecutor file?**  
 10 MS. CARNEY: Objection. Asked and answered.  
 11 BY MR. SWAMINATHAN:  
 12 **Q. Sir?**  
 13 A. I -- I did not.  
 14 **Q. Did you disclose any findings about whether**  
 15 **the prosecutor file was complete or incomplete?**  
 16 A. As I just said, I did not.  
 17 **Q. Did you disclose that you had you had found**  
 18 **some evidence of any kind to indicate that the**  
 19 **prosecutor's file was incomplete?**  
 20 MS. CARNEY: Objection. Form. Asked and  
 21 answered.  
 22 THE WITNESS: As I've said numerous times, I  
 23 stopped once I saw the public defender's was so  
 24 incomplete.  
 25 BY MR. SWAMINATHAN:

<p style="text-align: right;">Page 246</p> <p>1 Q. Okay. And you had the entire prosecutor file,</p> <p>2 so if you wanted to, you could have compared the entire</p> <p>3 police file to the prosecutor file to see if the</p> <p>4 documents also ended up in the prosecutor file, correct?</p> <p>5 A. I -- I -- I don't know if I have the entire</p> <p>6 prosecutor's file. As -- as I've stated through this</p> <p>7 report, there are many times where the prosecutor's</p> <p>8 file, today, as we look at it, is incomplete. What I</p> <p>9 was struck by the Soto case was how the -- the public</p> <p>10 defender's file was so incomplete as to be impossible to</p> <p>11 claim that the prosecutor or the police didn't provide</p> <p>12 these documents at the time of trial.</p> <p>13 Q. Did you -- when you reviewed the prosecutor</p> <p>14 file in this case, as you indicated, did you find that</p> <p>15 there was anything unusual about the information</p> <p>16 contained in the state's attorney file?</p> <p>17 MS. CARNEY: Objection. Form.</p> <p>18 THE WITNESS: If I can say it again, I was</p> <p>19 struck by the public defender's file being</p> <p>20 incomplete. So my analysis of the prosecutor's file</p> <p>21 didn't need to be any more detailed than it was.</p> <p>22 BY MR. SWAMINATHAN:</p> <p>23 Q. Okay.</p> <p>24 MS. CARNEY: Anand, now when you're at a good</p> <p>25 spot, I need a break.</p>	<p style="text-align: right;">Page 248</p> <p>1 Q. Okay. And I just wanted to ask you about</p> <p>2 entry number five in your -- in that list there we've</p> <p>3 talked to about a hand-drawn map. Do you see that?</p> <p>4 A. I do see that.</p> <p>5 Q. Okay. Now the hand-drawn map that's</p> <p>6 referenced there in numeral five of your par -- in your</p> <p>7 paragraph, that document, you did not find in the</p> <p>8 defense file or the prosecutor file, correct?</p> <p>9 A. That is correct.</p> <p>10 Q. Okay. Now the document itself -- strike that.</p> <p>11 You indicated that some of the information contained on</p> <p>12 that hand-drawn map is contained in other places in the</p> <p>13 file, correct?</p> <p>14 A. Yes. On a -- a -- a series of pages in a -- a</p> <p>15 supplementary report, I believe, or maybe it was --</p> <p>16 yeah, I think it was a supplementary report.</p> <p>17 Q. Okay. Now, if I understand your testimony</p> <p>18 correctly, you agree that that hand-drawn map itself,</p> <p>19 you would still expect the police to turn over to the</p> <p>20 prosecutors to be tendered to the defense as well,</p> <p>21 correct?</p> <p>22 A. I would.</p> <p>23 Q. Okay. Now, let's take a look at People v. Kim</p> <p>24 Mathis, number 17.</p> <p>25 A. Hold on. Yes.</p>
<p style="text-align: right;">Page 247</p> <p>1 MR. SWAMINATHAN: Yeah, we can take a break</p> <p>2 right now.</p> <p>3 THE REPORTER: Okay. We're going off the</p> <p>4 record. The time is 3:39 p.m.</p> <p>5 (OFF THE RECORD)</p> <p>6 THE REPORTER: We're back on the record. The</p> <p>7 time is 3:54 p.m.</p> <p>8 BY MR. SWAMINATHAN:</p> <p>9 Q. Okay. Mr. Murray, could you turn to Page 13</p> <p>10 of your report?</p> <p>11 A. All right.</p> <p>12 Q. And this is the section where you begin to dis</p> <p>13 -- at the very bottom is where you -- the section header</p> <p>14 at the bottom says, "Comparison of eight attorney" -</p> <p>15 "defense attorney files to investigative files." Do you</p> <p>16 see that?</p> <p>17 A. I see that.</p> <p>18 Q. Okay. All right. And I want to ask you what</p> <p>19 a couple of these files here, and I'm going to -- I</p> <p>20 think we're going to be wrapped up here pretty quickly</p> <p>21 if I can stay on discipline here. Let's go to Page 15.</p> <p>22 A. Hold on. Okay.</p> <p>23 Q. Okay. On Page 15, you talk about the People</p> <p>24 v. Edwards case, correct?</p> <p>25 A. I see that.</p>	<p style="text-align: right;">Page 249</p> <p>1 Q. Okay. And in People v. Kim Mathis, there's a</p> <p>2 note that appears to be on the back of a GPR, correct?</p> <p>3 A. No.</p> <p>4 Q. That Mr. Tiderington identified?</p> <p>5 A. Like one extra sentence or something like</p> <p>6 that, yes.</p> <p>7 Q. Okay. And you didn't find that information on</p> <p>8 the back of a GPR in the prosecutor file or the defense</p> <p>9 file, correct?</p> <p>10 A. Let me take a look. I think that's correct,</p> <p>11 but let me examine my notes.</p> <p>12 Q. Yep. Yep.</p> <p>13 A. I -- I -- I -- I've not noted whether it was</p> <p>14 in the prosecutor's file, so I assume I did not find it</p> <p>15 in the prosecutor's file.</p> <p>16 Q. Okay. And when you review and then the rest</p> <p>17 of your analysis there in Paragraphs 3 through 4 talks</p> <p>18 about some of the other evidence and documents in the</p> <p>19 case that refer to these same individuals, Terry Mathis</p> <p>20 and Kim Mathis, correct?</p> <p>21 A. And -- and specifically to the allegation that</p> <p>22 the sister was present during the -- the whipping of the</p> <p>23 victim.</p> <p>24 Q. Okay. And ultimately, your testimony is that</p> <p>25 regardless of what information is in the rest of the</p>



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1 file, to the extent there's information contained on  
2 that GPR, you would expect it to have been tendered to  
3 the prosecution and to the defense, correct?

4 A. And -- but specifically that one sentence was  
5 out of -- well, not out of context. It was near the end  
6 of that GPR. What -- and it seemed to indicate that she  
7 was -- that Terry, the sister, was present where that  
8 the remainder of that GPR and all the other police  
9 reports and all the conversations between defense  
10 counsel and defendant as well as Terry, reveals that --  
11 that Terry couldn't find parking and dropped Kim off in  
12 front of the -- a building. Then she went into the  
13 building, whipped the victim. So that one kind of  
14 confusing statement that she was there, it -- it might  
15 just refer to that she was there dropping her sister  
16 off, but I'm -- I'm saying that -- that all the context  
17 of the whole rest of the police report refutes that  
18 Terry was up in the apartment.

19 Q. Okay. And so the information on that -- on  
20 that one piece -- sorry. The piece of information on  
21 that report, that -- strike that. The piece of  
22 information on that GPR that you didn't find in the PD -  
23 - in the public defender file or prosecution file is  
24 different than the information that's contained in the  
25 rest of the file; is that right?

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1 A. Let -- let -- let me let me word that more --  
2 more carefully. The -- even that GPR, which I believe  
3 was the interview of -- of Terry -- it could also be a  
4 separate GPR, those interview of the defendant, Kim. It  
5 -- it's -- it's ambiguous about that one note that's --  
6 that's not in the public defender's file. It's, like,  
7 one sentence at the end of that -- that -- that GPR, so  
8 even the context of the GPR doesn't say that the sister  
9 was in the apartment at the time of the assault. And  
10 then everything else in the -- in the file, including in  
11 the public defender's file, indicates that she was not  
12 upstairs, so what I'm trying to say is that one  
13 sentence, which was a little -- not misleading, but a  
14 little vague, could refer to being out in front of the  
15 house as opposed to being in the apartment.

16 Q. Okay. And are you -- strike that. Are you  
17 saying that the information on that GPR that was not  
18 found in the public defender file or the prosecutor  
19 file, that because there are other references to the  
20 interviews of that individual it's okay not -- for  
21 police not to tender that to the prosecution and  
22 defense?

23 A. Well, I'm not --

24 MS. CARNEY: Form.

25 THE WITNESS: I -- I'm not saying that it's

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1 okay not to -- to tender it. I'm saying that --  
2 that -- is it really a sentence at the end of a --  
3 of a full- page GPR or nearly full-page GPR? That  
4 was a little bit vague. So yeah. Did it not get  
5 Xeroxed? Was it -- was it likely on the backside  
6 of a GPR and that's why it wasn't provided? Yeah.  
7 That should have been provided. No doubt about  
8 that. But this is not a -- a denial of access to  
9 information that -- that had any meaning in -- when  
10 it's compared to the rest of the file interviews  
11 with both Terry and with Kim. That's what I'm  
12 saying.

13 BY MR. SWAMINATHAN:

14 Q. Okay. And so when I read this section of your  
15 report, you're -- you agree that the information,  
16 whether it's on the back of the GPR or on the front of  
17 the GPR, should be tendered to the prosecution, correct?

18 A. Well, the front of the GPR was tendered. It's  
19 just that one sentence on the back of the GR that wasn't  
20 tendered, and I agree that it's -- it's part of the  
21 investigative file. It should have been provided. I'm  
22 not disagreeing with that.

23 Q. And that -- that's the only part that I wanted  
24 to make sure. I just want to make sure I'm  
25 understanding that part of it. And then --

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1 MS. GOLDEN: Well, wait a second. I know that  
2 you want to understand that first part, but you cut  
3 him off from what he was about to say.

4 BY MR. SWAMINATHAN:

5 Q. Is there more you want to say about it,  
6 Mr. Murray?

7 A. Yes. The -- the -- even -- even before that  
8 one sentence, which I contend is kind of vague, even  
9 before we get to that, even the context of the rest of  
10 the GPR is that she was not up in the apartment. She  
11 was down in the street in the car. And then the point  
12 four is the public defender's file has extensive diary  
13 of interviews by the public defender, who represented  
14 Kim as well as Terry and other family members. It was  
15 open conversation regarding where she was, what she did,  
16 and where she went, so I'm adding into that -- that if -  
17 - if Terry was to say -- or Kim were to say, "no, Terry  
18 was up in the apartment at the time of the attack,"  
19 there was nothing precluding them from learning that  
20 information from their client and their client's sister.

21 Q. Okay. And that's why I'm getting confused now  
22 because now -- so is it your testimony that if a -- if  
23 an attorney could ask the right questions to obtain the  
24 same information, then the obligation to turn that over  
25 from the police no longer exists?



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1 MS. CARNEY: Form.  
 2 MS. GOLDEN: Misstates his testimony.  
 3 THE WITNESS: I -- I still haven't said that.  
 4 I said that all investigative material --  
 5 BY MR. SWAMINATHAN:  
 6 Q. Okay. So that I just wanted to make sure I'm  
 7 understanding it.  
 8 A. I'm sorry. All investigative material should  
 9 be provided, even that one sentence on the back of the  
 10 report, but I'm just trying to put it into the context  
 11 of how that -- number one, how that might've happened.  
 12 Maybe the back page was not Xeroxed, so that's issue  
 13 number one, I suppose. But then the other part of it is  
 14 that there was extensive access to those two people, and  
 15 the -- the -- the public defender's running diary, which  
 16 probably should have been subject to redaction, clearly  
 17 shows open conversations with those two women and that  
 18 not being an issue.  
 19 Q. I think you've totally lost me now, so I  
 20 anything I need to -- let me break it into pieces to  
 21 make sure I'm understanding, okay? You say that there's  
 22 a bunch of information in this file that could otherwise  
 23 explain the information that's otherwise on the back of  
 24 that GPR, correct?  
 25 A. Generally -- primarily that she was -- she,

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1 Terry, was driving around at -- at the location, but  
 2 didn't go into the location.  
 3 Q. Okay. And I think we've established -- let me  
 4 make sure. So we've established, one, you agree that  
 5 the information on the GPR should be disclosed to the  
 6 prosecutors and the defense, regardless of whether it's  
 7 on the front of the page of the back of the page. Are  
 8 we on the same page there?  
 9 A. All investigative materials should be provided  
 10 to the police and to the defendant.  
 11 Q. Okay. And then --  
 12 A. All relevant material.  
 13 Q. Are we on the same -- okay. Go ahead. Sorry.  
 14 Sorry.  
 15 A. All -- I meant to say all relevant  
 16 investigative material.  
 17 Q. And then are we on the same page that the  
 18 information on the GPR, regardless of whether one could  
 19 later learn that same information through counsel or  
 20 through other witnesses, that information should still  
 21 be tendered to the prosecution, regardless of whether  
 22 there are other ways of learning that information? Do  
 23 you agree with that?  
 24 A. I -- I guess I'm trying to say is the material  
 25 -- investigative materials should have been provided,

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1 and -- and -- and by the way, the -- I don't know if the  
 2 public defender's file was complete at the time that we  
 3 now have it. That page may have been provided, but I'm  
 4 saying in the rest of the material that we do have in  
 5 the public defender's file, it certainly shows that it  
 6 was not an issue.  
 7 Q. Okay. Can we just go back to my question? Let  
 8 me ask it again. I'm just asking you if what your -- is  
 9 it your opinion that if information that's contained in  
 10 a police report can then be subsequently learned by the  
 11 attorney through other means that it's no longer the  
 12 case that that police report should be tendered to the  
 13 prosecution and defense?  
 14 A. And for the --  
 15 MS. GOLDEN: Object to form.  
 16 THE WITNESS: For the third time, I'm not  
 17 saying that.  
 18 BY MR. SWAMINATHAN:  
 19 Q. Okay. That's all that -- I just wanted to  
 20 make sure I understood that. Okay. And then -- all  
 21 right. Let's look at Ardell -- let's see. Okay. Let's  
 22 go back to the number -- Page 1 of your report, all the  
 23 way back to Page 1.  
 24 A. Yes.  
 25 Q. Nah. I guess I don't really need to look at

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1 that. Okay. Let's look at Page -- actually, let's go  
 2 to Page 9 of your report.  
 3 A. Yes.  
 4 Q. On Page 9 at EI1, do you see that sort of near  
 5 the bottom of the page?  
 6 A. I'm there now.  
 7 Q. "If he is referring to the manner," do you see  
 8 that paragraph that begins there?  
 9 A. I -- I see that.  
 10 Q. Okay. It says, "Prosecutors and criminal  
 11 defense attorneys are aware of the manner and location  
 12 of how those reports are created and where they are  
 13 stored." Do you see that?  
 14 A. Yes.  
 15 Q. You can read that whole paragraph there?  
 16 A. I do see it. I see it.  
 17 Q. Okay. What is your basis for saying that  
 18 criminal defense attorneys are aware of the manner and  
 19 location of how reports are created and stored?  
 20 A. Well, I look at all the subpoenas that are in  
 21 all the public defender's files. So they -- they send  
 22 subpoenas to the areas as well as to 11th and State or  
 23 35th and Michigan, and they list off the laundry list of  
 24 items, just like prosecutors do, that they wanted to  
 25 recover. And they use the street files language:

<p style="text-align: right;">Page 258</p> <p>1 street files, running files, investigative files, area 2 files. So they know that those -- that a possible 3 location for those reports or where they were created in 4 the area and they may be stored there as well as sending 5 those same subpoenas, like I said, to -- to what's 6 colloquially called headquarters to get whatever else 7 they want, the case report, the forensic reports. And so 8 you see that in case after case that both prosecutors 9 and public defenders are issuing the same style of 10 subpoena.</p> <p>11 Q. Okay. And that's an indication that they are 12 asking for lots of different things, but in -- to what 13 extent does that reveal that they know actually where 14 that information is stored and how it's created?</p> <p>15 A. Well, because they often send those subpoenas 16 to the areas and they call them area files, that would 17 be an example of knowing where -- where investigative 18 files are created and stored.</p> <p>19 Q. Okay. And some of that information is 20 sometimes not stored at the areas. It's stored in ERPS 21 or the identification section or other locations as 22 well, correct?</p> <p>23 A. Yes. And -- and that's why the those other 24 subpoenas are sent to 11th and State or 35th and 25 Michigan for dispersal to those other areas.</p>	<p style="text-align: right;">Page 260</p> <p>1 A. I do.</p> <p>2 Q. You said you do have it?</p> <p>3 A. I have his report.</p> <p>4 Q. Okay. Can you go to Page 34 of his report?</p> <p>5 A. Just give me one second. Okay. I'm there.</p> <p>6 Q. And on Page 34 of his report, he discusses 7 some findings of the Office of Inspector General of the 8 City of Chicago. Do you see that?</p> <p>9 A. I'm sorry. Say it again.</p> <p>10 Q. Yeah. Look in the middle of his report where 11 there's a section --</p> <p>12 A. Okay.</p> <p>13 Q. -- that begins, "Remarkably."</p> <p>14 A. Yeah. I'm there.</p> <p>15 Q. Okay. And in that section, he summarizes 16 various findings from an Office of Inspector General 17 report from the City of Chicago from June of 2020. Do 18 you see that?</p> <p>19 A. I see that.</p> <p>20 Q. Okay. And you reviewed this as part of your 21 review of his report in advance of preparing your own 22 report, correct?</p> <p>23 A. That's true, but as -- as I've said before, I 24 was more focused on the Page 51 reports and the eight 25 cases and all that. So I was not necessarily opining on</p>
<p style="text-align: right;">Page 259</p> <p>1 Q. Okay. And are you saying that you're aware 2 that all the public -- the defense attorneys all know 3 all of those different areas where the materials are 4 stored?</p> <p>5 A. Yes. I -- I would say that from my practice 6 and in the homicide cases, when they were requesting the 7 area files, the investigative files, they knew what area 8 is this. They put it on there on a -- in -- in the -- 9 in previous days, I guess. You know, 51st and -- and 10 Wentworth, for example, for Area 1, they would put that 11 right on there, so yes. They knew if it was an Area 1 12 case that the investigative file was in all likelihood 13 there and -- and that the -- the RD file was stored 14 elsewhere.</p> <p>15 Q. Okay. And do you recall when you reviewed 16 Mr. Tiderington's expert report he referred to the 17 Office of the Inspector General report for the City of 18 Chicago? Do you recall his report discussing that OIG 19 report?</p> <p>20 A. No. I -- actually, I don't.</p> <p>21 Q. Okay. Let's go to his report. Do you have a 22 copy of it with you?</p> <p>23 A. Hold on.</p> <p>24 Q. Let me see. I can pull it up on the screen 25 here, too.</p>	<p style="text-align: right;">Page 261</p> <p>1 this part of his report.</p> <p>2 Q. Okay. But in your report, you wrote that 3 prosecutors and defense attorneys are aware, basically, 4 of the locations of where reports are created and where 5 they can be obtained, correct?</p> <p>6 A. Yes.</p> <p>7 Q. Okay. And if you look at this OIG report that 8 he's described here, he quotes the findings of the OIG 9 report, which say, "CPD Subpoena Unit and Office of 10 Legal Affairs, the units responsible for responding to 11 subpoenas and record requests, cannot ensure that 12 they're identifying and locating all responsive records 13 for production. The department lacks the means to 14 determine what records may exist for any case or 15 incident, making it impossible to know whether it has 16 identified and produced all relevant records." Do you 17 see that?</p> <p>18 A. I just read that. I just --</p> <p>19 Q. Okay. Basically, what the OIG's finding was 20 that the Chicago Police Department itself doesn't know 21 where all of its documents are, fair?</p> <p>22 MS. CARNEY: Objection. Form. Foundation. 23 Misstates testimony. Go ahead.</p> <p>24 THE WITNESS: Well, that's what the -- the 25 2020 OIG report findings included, so it's just</p>

<p style="text-align: right;">Page 262</p> <p>1 amazing that prosecutors and public defenders</p> <p>2 recovered all these reports back in the day.</p> <p>3 Amazing.</p> <p>4 BY MR. SWAMINATHAN:</p> <p>5 Q. And the finding of the OIG in 2020 about the</p> <p>6 ability of seat of the Chicago Police Department itself</p> <p>7 to find records, does it cause you to have any doubts or</p> <p>8 concerns about your opinion that prosecutors and</p> <p>9 criminal defense attorneys knew exactly where everything</p> <p>10 was and how to get it?</p> <p>11 MS. CARNEY: Objection. Form. Foundation.</p> <p>12 THE WITNESS: I -- I would --</p> <p>13 MS. CARNEY: Argumentative.</p> <p>14 THE WITNESS: I -- I would say to you that we</p> <p>15 issued those subpoenas and we got the reports, so</p> <p>16 we must've been doing something right.</p> <p>17 BY MR. SWAMINATHAN:</p> <p>18 Q. Okay. And your testimony is when you got the</p> <p>19 reports, you can say with confidence that you got all of</p> <p>20 the reports?</p> <p>21 MS. CARNEY: Objection. Form. Misstates his</p> <p>22 testimony.</p> <p>23 THE WITNESS: As -- as -- as I said before, we</p> <p>24 gather all the reports, read them in tandem, and</p> <p>25 determine if we received everything. If we haven't</p>	<p style="text-align: right;">Page 264</p> <p>1 determine whether we -- we believe we have</p> <p>2 everything. If we think something is missing, we</p> <p>3 ask for them to turn in reports, but at the end of</p> <p>4 the day, there is a level of trust.</p> <p>5 BY MR. SWAMINATHAN:</p> <p>6 Q. Okay. And when you read the findings of the</p> <p>7 Office of Inspector General, does it cause you to have</p> <p>8 any concerns that maybe that trust was misplaced?</p> <p>9 MS. CARNEY: Objection.</p> <p>10 MS. GOLDEN: Form and foundation.</p> <p>11 MS. CARNEY: Argumentative.</p> <p>12 THE WITNESS: As I said a minute ago, despite</p> <p>13 those findings by OIG, we -- we, by being</p> <p>14 prosecutors and defense attorneys, did acquire all</p> <p>15 those reports with a certain level of certainty</p> <p>16 back when we were getting ready for trial. So it</p> <p>17 doesn't cause me the concern that may -- it -- it</p> <p>18 may exhibit to you.</p> <p>19 BY MR. SWAMINATHAN:</p> <p>20 Q. Okay. Did you -- when you saw that in</p> <p>21 Mr. Tiderington's report, did you decide to review the</p> <p>22 OIG report and understand why it -- the OIG had reached</p> <p>23 those conclusions?</p> <p>24 MS. CARNEY: Objection. Form. Foundation.</p> <p>25 MS. GOLDEN: It also calls for privileged</p>
<p style="text-align: right;">Page 263</p> <p>1 received everything, we ask, where is other</p> <p>2 reports? If there's a timing issue, we keep looking</p> <p>3 for that. But we sent the subpoenas to those</p> <p>4 locations, both prosecutors, public defenders, and</p> <p>5 private attorneys, and by the time we got to being</p> <p>6 ready for trial, we were fairly confident that we</p> <p>7 had everything.</p> <p>8 BY MR. SWAMINATHAN:</p> <p>9 Q. Okay. And I think you acknowledged that the</p> <p>10 process does require you ultimately to pay -- place some</p> <p>11 trust that Chicago Police detectives and the department</p> <p>12 are providing you with all of the documents that they</p> <p>13 have in their files, correct?</p> <p>14 MS. GOLDEN: Object to the form of the</p> <p>15 question. Asked and answered --</p> <p>16 THE WITNESS: Yeah. I -- I think I --</p> <p>17 MS. GOLDEN: -- about six hours ago.</p> <p>18 THE WITNESS: Thank you. I think I did answer</p> <p>19 that before, sir.</p> <p>20 BY MR. SWAMINATHAN:</p> <p>21 Q. What's the answer?</p> <p>22 A. That the --</p> <p>23 MS. GOLDEN: Objection. Form.</p> <p>24 THE WITNESS: The -- the answer is that we --</p> <p>25 we examine all those documents to -- to -- to</p>	<p style="text-align: right;">Page 265</p> <p>1 information.</p> <p>2 MR. SWAMINATHAN: No, it doesn't.</p> <p>3 BY MR. SWAMINATHAN:</p> <p>4 Q. Go ahead.</p> <p>5 MS. GOLDEN: Actually, it does because it goes</p> <p>6 to the drafting process.</p> <p>7 MR. SWAMINATHAN: It doesn't.</p> <p>8 BY MR. SWAMINATHAN:</p> <p>9 Q. Go ahead.</p> <p>10 MS. GOLDEN: Actually, it does.</p> <p>11 MS. CARNEY: Hold on. What is your question,</p> <p>12 Anand?</p> <p>13 MR. SWAMINATHAN: Did you decide to review the</p> <p>14 OIG findings cited in Mr. Tiderington's Report that</p> <p>15 you reviewed?</p> <p>16 MS. CARNEY: Okay. So to the extent that you</p> <p>17 need to disclose any attorney-client communications</p> <p>18 in order to answer that question about what or what</p> <p>19 you didn't review, I would advise you not to</p> <p>20 answer.</p> <p>21 THE WITNESS: I personally did not review the</p> <p>22 OIG report.</p> <p>23 BY MR. SWAMINATHAN:</p> <p>24 Q. Okay. Did you request a copy of the OIG</p> <p>25 report so you could review it yourself to see what</p>

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1 caused the OIG to reach those findings?

2 MS. CARNEY: Objection. Form.

3 THE WITNESS: I did not review that report. As

4 I said to you before, I was more focused on the

5 Page 51 material, the page -- the eight cases, and

6 the Polaroid photographs.

7 BY MR. SWAMINATHAN:

8 Q. Were you curious about why the OIG reached

9 those findings?

10 MS. GOLDEN: Form.

11 MS. CARNEY: Objection. Form. Calls for

12 speculation. Go ahead.

13 MS. GOLDEN: I think it's also asked and

14 answered, but --

15 THE WITNESS: Oh, I'm sorry. My -- my -- I

16 did not have any level of curiosity.

17 BY MR. SWAMINATHAN:

18 Q. Okay. And did you do any assessment to

19 understand how far back the OIG had looked at material

20 to understand how pervasive this problem was?

21 MS. CARNEY: Objection. Form. Foundation.

22 Asked and answered. And assumes -- misstates the

23 evidence. Go ahead.

24 THE WITNESS: I did not examine the report.

25 BY MR. SWAMINATHAN:

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1 Q. Okay. And to these -- going back to your --

2 we can put Tiderington's expert report to the side.

3 Going back to your report where you referenced defense

4 attorneys being aware of the manner and location of how

5 reports are created and so on, I just -- I want to ask

6 you a couple questions about the public defender's

7 policies. Did you have -- strike that. Did you ever

8 review any policies of the public defender's office with

9 regard to their process for obtaining records from the

10 police department?

11 A. Did I review policy manuals or something like

12 that?

13 Q. Any policies of the public defender's office.

14 A. I -- I did not -- well, again, do you mean,

15 like, a policy manual? What do you mean?

16 Q. Just policies. Just -- like, written

17 policies, just like the general orders or special orders

18 in a police department.

19 A. I did not look at written policies of the

20 public defender's office.

21 Q. Have you ever reviewed any written policies at

22 the public defender's office?

23 A. No.

24 Q. Do you know what the public defender's

25 office's policies were with regard to the maintenance of

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1 their homicide files or other files?

2 MS. GOLDEN: Object to form and foundation.

3 THE WITNESS: Could you ask the question

4 again, sir?

5 BY MR. SWAMINATHAN:

6 Q. Yes. Do you have any knowledge about what the

7 public defender's policies were with regard to the

8 maintenance of their -- the files from the prosecution

9 and defense?

10 MS. GOLDEN: Sorry. Form. Foundation.

11 THE WITNESS: Well, I -- I -- I know what

12 Public Defender Karen Diamond said in her Velez v.

13 Dart Motion to Quash. The --

14 BY MR. SWAMINATHAN:

15 Q. Did she provide the --

16 MS. GOLDEN: Well, excuse me. I think you

17 interrupted the witness, please.

18 BY MR. SWAMINATHAN:

19 Q. Go ahead.

20 A. She didn't believe that the files were

21 maintained in a manner that -- that they would be able

22 to be reviewed 30 years later for the benefit of civil

23 litigation. So I don't know if she's speaking to -- to

24 a policy that -- that was either had or -- or did not

25 -- did not exist, but she certainly weighs in on the --

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1 on -- on the fact that they were incomplete.

2 Q. Okay. And so did she attach to her --

3 whatever it is that you reviewed of hers a copy of any

4 police -- Cook County Public Defender's Office policy?

5 A. Did she -- she did not attach a policy

6 document to it.

7 Q. Did she cite to any policy document?

8 A. No, she did not.

9 Q. Okay. And so had -- and I think you answered

10 the question by referring to Karen Diamond, so I got

11 confused. Did you review any public defender policy

12 document about how they maintain their files?

13 MS. CARNEY: Objection. Form. Foundation.

14 THE WITNESS: I think I answered this, but I

15 did not look at public defender policies.

16 BY MR. SWAMINATHAN:

17 Q. Okay. And did you review any procedures

18 manuals for the public defender's office about how they

19 maintained their files?

20 A. Is there a difference between policy and

21 procedure?

22 Q. Yes. But you want me to ask a different

23 question or clarify?

24 A. Yeah, please.

25 Q. As opposed to written policies, did you review

<p style="text-align: right;">Page 270</p> <p>1 any documents setting forth the procedures for</p> <p>2 implementing or following those policies of the public</p> <p>3 defender's office?</p> <p>4 MS. CARNEY: Object to form.</p> <p>5 THE WITNESS: Not a -- a -- a document issued</p> <p>6 by their office, but as I've spoken to already, the</p> <p>7 -- the routine use of subpoenas, which were very</p> <p>8 descriptive and very similar to the subpoenas the</p> <p>9 prosecutor sent out. I don't know if it was a</p> <p>10 policy or a procedure in their office, but on every</p> <p>11 murder case that I handled a public defender, they</p> <p>12 issued those subpoenas.</p> <p>13 BY MR. SWAMINATHAN:</p> <p>14 Q. And did you review any internal --</p> <p>15 MS. GOLDEN: Well, hold on, Anand.</p> <p>16 MR. SWAMINATHAN: Oh, I'm sorry.</p> <p>17 MS. GOLDEN: I'm know you're trying to wrap it</p> <p>18 up, but you're starting to cut him off a little</p> <p>19 more frequently.</p> <p>20 THE WITNESS: So I -- I -- I -- I don't know</p> <p>21 if they had a policy circulating in the public</p> <p>22 defender's office that if you're in the murder task</p> <p>23 force you must issue that subpoena. I don't know</p> <p>24 if it was a policy or a procedure the -- that they</p> <p>25 had there, but they did it in every case.</p>	<p style="text-align: right;">Page 272</p> <p>1 County Public Defender's Offices file-keeping practices?</p> <p>2 MS. CARNEY: Objection. Form. Foundation.</p> <p>3 Argumentative. And misstates his report and</p> <p>4 testimony.</p> <p>5 THE WITNESS: I don't -- I don't claim to be</p> <p>6 an expert. I'm just quoting to you what</p> <p>7 Ms. Diamond said in a Motion to Quash -- a</p> <p>8 subpoena. A -- a -- an assumption adopted in the</p> <p>9 case is that the -- if the report is not found in</p> <p>10 their file, it must not have been given to them.</p> <p>11 She refutes that in her filing.</p> <p>12 BY MR. SWAMINATHAN:</p> <p>13 Q. Do you know what Karen Diamond's role was in</p> <p>14 the public defender's office?</p> <p>15 A. I believe it was a supervisory role, but I'm</p> <p>16 not exactly positive.</p> <p>17 Q. Okay. And do you know what role she had with</p> <p>18 regard to the maintenance of files herself?</p> <p>19 A. I -- I only know what she filed.</p> <p>20 Q. Do you know what -- so do -- does that mean</p> <p>21 you do or you don't know what she -- what her role was</p> <p>22 with regard to the maintenance of files at the</p> <p>23 completion of a trial?</p> <p>24 MS. CARNEY: Object to form.</p> <p>25 THE WITNESS: I -- I do not know what her role</p>
<p style="text-align: right;">Page 271</p> <p>1 BY MR. SWAMINATHAN:</p> <p>2 Q. Did you review any procedures manuals</p> <p>3 implementing policies about how the public defender's</p> <p>4 office would keep its files at the conclusion of trials?</p> <p>5 MS. CARNEY: Objection.</p> <p>6 MS. GOLDEN: Form.</p> <p>7 MS. CARNEY: Foundation.</p> <p>8 THE WITNESS: I did not review any of their</p> <p>9 policy manuals.</p> <p>10 BY MR. SWAMINATHAN:</p> <p>11 Q. Did you interview anyone from the public</p> <p>12 defender's office about what their practices were with</p> <p>13 regard to their files at the conclusion of a case?</p> <p>14 A. I did not.</p> <p>15 Q. Did you ever work in the Cook County Public</p> <p>16 Defender's Office in any role?</p> <p>17 A. No.</p> <p>18 Q. Have you ever worked as a public defender or</p> <p>19 criminal defense attorney?</p> <p>20 A. You already asked those questions early on. I</p> <p>21 was a prosecutor from the very beginning of my career.</p> <p>22 I've only been a prosecutor.</p> <p>23 Q. Okay.</p> <p>24 A. I did not work in any public defender office.</p> <p>25 Q. And do you claim to be an expert on the Cook</p>	<p style="text-align: right;">Page 273</p> <p>1 was.</p> <p>2 MR. SWAMINATHAN: Okay. Let's take a quick</p> <p>3 break. I think I might be done, so let me just</p> <p>4 quickly see if I got anything else.</p> <p>5 THE WITNESS: Okay.</p> <p>6 MS. GOLDEN: Okay. About how many minutes,</p> <p>7 how long?</p> <p>8 MR. SWAMINATHAN: Let's go over three minutes</p> <p>9 as a goal.</p> <p>10 MS. GOLDEN: Yeah. All right. I won't leave.</p> <p>11 THE REPORTER: Okay. Going off the record.</p> <p>12 The time is 4:22.</p> <p>13 (OFF THE RECORD)</p> <p>14 THE REPORTER: We're back on the record. The</p> <p>15 time is 4:26 p.m.</p> <p>16 MR. SWAMINATHAN: All right. I have no</p> <p>17 further questions.</p> <p>18 MS. GOLDEN: All right.</p> <p>19 MS. CARNEY: All right. Any -- Jan, do you</p> <p>20 have any?</p> <p>21 MS. SUSLER: I do not have any questions.</p> <p>22 Thank you.</p> <p>23 MS. CARNEY: Anybody from the defense?</p> <p>24 MR. SCHALKA: Nothing from me.</p> <p>25 MS. CARNEY: No questions. Thank you,</p>



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1 Mr. Murray.  
 2 THE REPORTER: Yes. Thank you. Mr. Murray,  
 3 would you like to read or waive?  
 4 MS. CARNEY: We're going to reserve.  
 5 THE REPORTER: You're going to waive?  
 6 MS. CARNEY: No. We're going to read.  
 7 MR. SCHALKA: Reserve.  
 8 THE REPORTER: Oh, read? Okay. Can I send it  
 9 to you then, Ms. Carney?  
 10 MS. CARNEY: Yes. You can send it directly to  
 11 me.  
 12 THE REPORTER: Perfect. And then I'll just  
 13 get orders real quick before everyone signs off.  
 14 Mr. Swaminathan, did you -- how do you like your  
 15 transcript, or do you need one right now?  
 16 MR. SWAMINATHAN: No. Don't need one right  
 17 now. Thank you.  
 18 THE REPORTER: Okay.  
 19 MR. SWAMINATHAN: I don't need video.  
 20 THE REPORTER: Okay. Ms. Susler, do you need  
 21 a transcript right now?  
 22 MS. SUSLER: No. Thank you very much.  
 23 THE REPORTER: Okay. Ms. Carney, do you need  
 24 a copy of the transcript right now?  
 25 MS. CARNEY: Not right now.

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1 THE REPORTER: Okay. And then, Mr. Schalka,  
 2 do you need a copy of the --  
 3 MR. SCHALKA: Yes.  
 4 THE REPORTER: -- transcript?  
 5 MR. SCHALKA: No, I don't.  
 6 THE REPORTER: No? Okay. And then,  
 7 Ms. Golden, did you need a copy?  
 8 MS. GOLDEN: No. Thank you.  
 9 THE REPORTER: Okay. All righty. And we're  
 10 off record --  
 11 MR. SWAMINATHAN: Madam Court Reporter, can  
 12 you put your e-mail address in the -- typed in the  
 13 chat? And then I'll e-mail you some exhibits.  
 14 THE REPORTER: I will. And then everyone stay  
 15 on. I'm going to go off real quick. The time is  
 16 4:28.  
 17 (DEPOSITION CONCLUDED AT 4:28 P.M.)  
 18  
 19  
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 22  
 23  
 24  
 25

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1 CERTIFICATE OF DIGITAL REPORTER  
 2 STATE OF ILLINOIS  
 3  
 4 I do hereby certify that the witness in the foregoing  
 5 transcript was taken on the date, and at the time and  
 6 place set out on the Title page hereof by me after first  
 7 being duly sworn to testify the truth, the whole truth,  
 8 and nothing but the truth; and that the said matter was  
 9 recorded digitally by me and then reduced to typewritten  
 10 form under my direction, and constitutes a true record  
 11 of the transcript as taken, all to the best of my skills  
 12 and ability. I certify that I am not a relative or  
 13 employee of either counsel, and that I am in no way  
 14 interested financially, directly or indirectly, in this  
 15 action.



17  
 18  
 19  
 20  
 21  
 22 EMILIA LOPEZ,  
 23 DIGITAL REPORTER / NOTARY  
 24 COMMISSION EXPIRES ON: 02/03/2024  
 25 SUBMITTED ON: 12/21/2023

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